**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF PUERTO RICO**

CONSERVATION LAW FOUNDATION, INC. Plaintiff, v. SCHNITZER STEEL INDUSTRIES, INC. and SCHNITZER PUERTO RICO, INC., Defendants	)))))))))))	Case No. **COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF AND CIVIL PENALTIES**

<u>INTRODUCTION</u>

1. This action is a citizen suit brought under Section 505 of the Federal Water Pollution Control Act ("Clean Water Act" or "CWA,"), 33 U.S.C. § 1365(a), to address Clean Water Act violations at four scrap metal facilities: (1) Schnitzer Puerto Rico, Inc. – Bayamón, located at Road #2 KM 7.7, Corujo Industrial Park in Bayamón, Puerto Rico 00960 (the "Bayamón Facility"); (2) Schnitzer Puerto Rico, Inc. – Caguas, located at Road PR-1 KM 30.0 INT., in Caguas, Puerto Rico 00726 (the "Caguas Facility"); (3) Schnitzer Puerto Rico, Inc. – Canovanas, located at Lot 61, Road PR-188, San Isidro Industrial Park in Canovanas, Puerto Rico 00729 (the "Canovanas Facility"); and (4) Schnitzer Puerto Rico, Inc. – Ponce, located at Port of Ponce Processed Material Staging Area, located at Road PR-123 Final in Ponce, Puerto Rico 00731 (the "Ponce Facility") (collectively, the "Facilities").

2. The Facilities are owned and operated by Schnitzer Steel Industries, Inc. ("Schnitzer Steel") and/or its subsidiary Schnitzer Puerto Rico, Inc. ("Schnitzer Puerto Rico"), and their agents and directors (collectively, "Schnitzer" or "Defendants"). Schnitzer is discharging

pollutants including heavy metals from these four facilities into receiving waters that include the Río Hondo, the Río Bairoa, an unnamed creek adjacent to the Río Grande de Loiza Estuary (the "Unnamed Creek"), and the Caribbean Sea. Schnitzer's discharges have been subject to the 2015 and 2021 Multi-Sector General Permits for Stormwater Discharges Associated with Industrial Activity (the "2015 MSGP" and the "2021 MSGP," collectively, the "MSGPs"). Schnitzer has discharged, and continues to discharge, stormwater associated with its industrial activities into waters of the United States in violation of the MSGPs by: (1) failing to take required corrective actions; (2) failing to follow required procedures for minimizing pollutant discharges; (3) contributing to the receiving waters' failure to meet water quality standards and their impairments; and (4) failing to comply with monitoring and reporting requirements.

3. Conservation Law Foundation ("CLF") seeks declaratory judgment, injunctive relief, and other relief with respect to the Facilities' violations of the MSGPs, Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a), and applicable regulations.

JURISDICTION AND VENUE

4. Plaintiff brings this civil suit under the citizen suit provision of Section 505 of the Clean Water Act, 33 U.S.C. § 1365.

5. This Court has subject matter jurisdiction over the parties and this action pursuant to Section 505(a)(1) of the Clean Water Act, 33 U.S.C. § 1365(a)(1); 28 U.S.C. § 1331 (an action arising under the Constitution and laws of the United States); and 28 U.S.C. §§ 2201 and 2202 (declaratory judgment).

6. On December 20, 2021, Plaintiff notified Schnitzer and its agents of its intention to file suit for violations of the Clean Water Act, in compliance with the statutory notice requirements of Section 505(b)(1)(A) of the Clean Water Act, 33 U.S.C. § 1365(b)(1)(A), and the

corresponding regulations located at 40 C.F.R. § 135.2. A true and accurate copy of Plaintiff's Notice Letter ("Notice Letter") is appended as Exhibit 1. The Notice Letter is incorporated by reference herein.

7. Each Defendant received the Notice Letter. A copy of each return receipt is attached as Exhibit 2.

8. Plaintiff also sent copies of the Notice Letter to the Administrator of the United States Environmental Protection Agency ("EPA"), the Acting Regional Administrator of EPA Region 1, the Citizen Suit Coordinator, and the Puerto Rico Department of Natural and Environmental Resources.

9. Each of the addressees identified in the preceding paragraph received the Notice Letter. A copy of each return receipt is attached as Exhibit 3.

10. More than sixty days have elapsed since Plaintiff mailed its Notice Letter, during which time neither EPA nor the Commonwealth of Puerto Rico has commenced an action to redress the violations alleged in this Complaint. 33 U.S.C. § 1365(b)(1)(B).

11. The Clean Water Act violations alleged in the Notice Letter are of a continuing nature, ongoing, or reasonably likely to re-occur. The Defendants remain in violation of the Clean Water Act.

12. Venue is proper in the United States District Court for the District of Puerto Rico pursuant to Section 505(c)(1) of the Clean Water Act, 33 U.S.C. § 1365(c)(1), because the sources of the violations are located within this judicial district.

PARTIES

Plaintiff

13. Plaintiff, Conservation Law Foundation ("CLF"), is a nonprofit, member-supported, regional environmental advocacy organization.

14. CLF has a long history of protecting water quality and addressing sources of industrial stormwater pollution.

15. CLF has over 6,300 members. CLF's members use and enjoy the rivers and waters of Puerto Rico for drinking water and recreational and aesthetic purposes.

16. CLF's members include individuals who live and spend time near the Caribbean Sea and other waters downstream from Defendants' Facilities. CLF's members have used and enjoyed the waters downstream from Defendants' Facilities for drinking water and recreational and aesthetic purposes.

17. CLF's members include individuals who have been and continue to be directly and adversely affected by the degradation of water quality downstream from Defendants' Facilities.

18. CLF's members are harmed by stormwater discharges of aluminum, copper, iron, lead, zinc, total suspended solids, and other pollutants to the waters downstream from Defendants' facilities. Schnitzer's stormwater discharges impair the recreational and aesthetic uses of these waters by harming fish and other aquatic life, contributing to unpleasant scum, foam, and/or odor, increasing toxic pollution, and reducing the enjoyment of CLF's members.

19. Schnitzer's stormwater discharges from the Caguas Facility impair the use of Lago Loiza for drinking water, negatively affecting the health of CLF's members.

Defendants

20. Defendant Schnitzer Steel Industries, Inc. ("Schnitzer Steel") is a corporation incorporated under the laws of Oregon.

21. Defendant Schnitzer Steel is the parent company of Schnitzer Puerto Rico, Inc. ("Schnitzer Puerto Rico").

22. Defendant Schnitzer Steel has control over its subsidiary Schnitzer Puerto Rico.

23. Defendant Schnitzer Steel is liable for the Clean Water Act violations of Schnitzer Puerto Rico.

24. Schnitzer Puerto Rico is a corporation incorporated under the laws of Puerto Rico.

25. Schnitzer Steel and its subsidiary Schnitzer Puerto Rico own and/or operate the Bayamón Facility and have owned and/or operated it since at least 2016.

26. Schnitzer Steel and its subsidiary Schnitzer Puerto Rico own and/or operate the Caguas Facility and have owned and/or operated it since at least 2016.

27. Schnitzer Steel and its subsidiary Schnitzer Puerto Rico own and/or operate the Canovanas Facility and have owned and/or operated it since at least 2016.

28. Schnitzer Steel and its subsidiary Schnitzer Puerto Rico own and/or operate the Ponce Facility and have owned and/or operated it since at least 2016.

29. Schnitzer Steel and Schnitzer Puerto Rico are responsible for ensuring that the Facilities operate in compliance with the Clean Water Act.

30. Defendants Schnitzer Steel Industries, Inc. and Schnitzer Puerto Rico, Inc. are persons as defined by Section 502(5) of the Clean Water Act, 33 U.S.C. 1362(5).

STATUTORY AND REGULATORY BACKGROUND

The Clean Water Act and the MSGP

31. The objective of the Clean Water Act is “to restore and maintain the chemical, physical and biological integrity of the Nation’s waters.” 33 U.S.C. § 1251(a) (1972).

32. The Clean Water Act prohibits the addition of any pollutant to navigable waters from any point source except as authorized by a National Pollutant Discharge Elimination System (“NPDES”) permit applicable to that point source. 33 U.S.C. §§ 1311(a) and 1342.

33. Under the Clean Water Act’s implementing regulations, the “discharge of a pollutant” is

defined as "[a]ny addition of any 'pollutant' or combination of pollutants to 'waters of the United States' from any 'point source.'" 40 C.F.R. § 122.2. *See also* 33 U.S.C. § 1362(12).

34. A "pollutant" is any "solid waste," "chemical wastes, biological materials," "wrecked or discarded equipment, rock, sand," and "industrial . . . waste" discharged into water. 33 U.S.C. § 1362(6).

35. The Clean Water Act defines navigable waters as "the waters of the United States, including the territorial seas." 33 U.S.C. § 1362(7). "Waters of the United States" are defined by EPA regulations to include, *inter alia*, all tributaries to interstate waters. See 40 C.F.R. § 122.2.

36. "Point source" is defined broadly to include, "any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, [or] conduit . . . from which pollutants are or may be discharged." 33 U.S.C. § 1362(14).

37. Section 402 of the CWA requires that NPDES permits be issued for stormwater discharges associated with industrial activities. 33 U.S.C. §§ 1342(a)(1), 1342(p)(2), 1342(p)(3)(A), 1342(p)(4), 1342(p)(6).

38. In establishing the regulations at 40 C.F.R. § 122.26, EPA cited abundant data showing the harmful effects of stormwater runoff on rivers, streams, and coastal areas across the nation. In particular, EPA found that runoff from industrial facilities contained elevated pollution levels. 55 Fed. Reg. 47990, 47991 (Nov. 16, 1990).

39. In September 1995, EPA issued a NPDES Storm Water Multi-Sector General Permit for Industrial Activities. EPA re-issued the MSGP on October 30, 2000, 65 Fed. Reg. 64746; on September 29, 2008, 73 Fed. Reg. 56572; on June 4, 2015 (the "2015 MSGP"), 80 Fed. Reg. 34403; and on September 29, 2021 (the "2021 MSGP"), 86 Fed. Reg. 10269.

40. The MSGP is issued by EPA pursuant to Sections 402(a) and 402(p) of the CWA and

regulates stormwater discharges from industrial facilities. 33 U.S.C. §§ 1342(a), 1342(p).

41. In order to discharge stormwater lawfully, industrial dischargers must obtain coverage under the MSGP and comply with its terms.

42. Industrial dischargers must develop and implement a Stormwater Pollution Prevention Plan ("SWPPP") that identifies sources of pollutants associated with industrial discharges from the facility and identifies effective best management practices to control pollutants in stormwater discharges in a manner that achieves the substantive requirements of the permit.

43. The MSGPs incorporate state water quality standards for all affected states. 2015 MSGP § 2.2.1 at 20; 2021 MSGP § 2.2.1 at 25.

44. The MSGPs require permittees to control stormwater discharges and to modify their control measures "as necessary to meet applicable water quality standards of all affected states." 2015 MSGP §§ 2.1 at 14, 2.2.1 at 20; 2021 MSGP § 2.2.1 at 25.

<u>Puerto Rico's Surface Water Quality Regulations</u>

45. Puerto Rico's water quality standards require that "[a]ll waters shall meet generally accepted aesthetic requirements." P.R. DEP'T OF NATURAL & ENV'T RES. REG. 9079 § 1303.1.

46. Puerto Rico's water quality standards require that "[t]he waters of Puerto shall not contain floating debris, scum or other floating material attributable to discharges in amounts sufficient to be unsightly or deleterious to the existing or designated uses of the water body." *Id.* at A.

47. Puerto Rico's water quality standards require that "[t]he waters of Puerto Rico shall be free from color, odor, taste or turbidity attributable to discharges in such a degree as to create a nuisance to the enjoyment of the existing or designated uses of the water body." *Id.* at B.

48. Puerto Rico's water quality standards require that suspended, colloidal, or settleable

"[s]olids from wastewater sources shall not cause deposition in or be deleterious to the existing or designated uses of the water body." *Id.* at E.

49. Puerto Rico's water quality standards require that [t]he waters of Puerto Rico shall be substantially free from floating non-petroleum oils and greases as well as petroleum derived oils and greases." *Id.* at H.

50. Puerto Rico's water quality standards require that "[t]he waters of Puerto Rico shall not contain any substance at such concentration which, either alone or as result of synergistic effects with other substances is toxic or produces undesirable physiological responses in human, fish or other fauna or flora." *Id.* at J.

51. Puerto Rico's water quality standards require that for Class SB waters, "[c]olor [s]hall not be altered except by natural phenomena. . ." *Id.* §1303.2.B.2.e.

52. Puerto Rico's water quality standards require that for Class SB waters, taste or odor-producing substances "[s]hall not be present in amounts that will interfere with primary contact recreation, or will render any undesirable taste or odor to edible aquatic life." *Id.* § 1303.2.B.2.g.

53. The designated uses for Class SB waters include "primary and secondary contact recreation, and for propagation and maintenance of desirable species, including threatened or endangered species." *Id.* § 1303.2.B.1.

54. Puerto Rico's water quality standards require that for Class SD waters, taste or odor-producing substances "[s]hall not be present in amounts that will interfere with the use for potable water supply or will render any undesirable taste or odor to edible aquatic life." *Id.* § 1303.2.C.2.h.

55. The designated uses for Class SD waters include "as a raw source of public water supply, propagation and maintenance of desirable species, including threatened or endangered species, as

well as primary and secondary contact recreation." *Id.* at § 1303.2.C.1.

Citizen Enforcement Suits Under the Clean Water Act

56. The Clean Water Act authorizes citizen enforcement actions against any "person" who is alleged to be in violation of an "effluent standard or limitation . . . or an order issued by the Administrator or a State with respect to such a standard or limitation." 33 U.S.C. § 1365(a)(1).

57. An "effluent limitation" is "any restriction established by a State or the Administrator on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into navigable waters, the waters of the contiguous zone, or the ocean, including schedules of compliance." *See id.* 1362(11).

58. Such enforcement action under Section 505(a)(1) of the Clean Water Act includes an action seeking remedies for unauthorized discharges under Section 301 of the Clean Water Act, 33 U.S.C § 1311, as well as for violations of a permit condition under Section 505(f), 33 U.S.C. § 1365(f).

59. Each separate violation of the Clean Water Act subjects the violator to a penalty of up to the maximum amount allowed pursuant to Sections 309(d) and 505(a) of the Clean Water Act, 33 U.S.C. §§ 1319(d), 1365(a). *See also* 40 C.F.R. §§ 19.1–19.4.

FACTUAL BACKGROUND

The Facilities' MSGPs

60. The Facilities discharge stormwater associated with industrial activity.

61. Schnitzer's activities at the Facilities include activities which are classified by the MSGPs as subsector N1: Scrap Recycling and Waste Recycling Facilities. 2015 MSGP § 8.N.6 at 129; 2021 MSGP § 8.N.6 at 163.

62. Schnitzer's activities at the Facilities include the receiving, processing, and distribution of non-source separated, nonliquid recyclable wastes, including ferrous and nonferrous metals,

per § 8.N.3.1 of the MSGPs. 2015 MSGP at 125; 2021 MSGP at 158.

63. Schnitzer was required to comply with the requirements of the 2015 MSGP from at least January 1, 2016 until July 1, 2021.

64. Schnitzer submitted its Notice of Intent for Stormwater Discharges Associated with Industrial Activity Under the [2021] NPDES Multi-Sector General Permit for the Facilities on May 28, 2021.

65. Schnitzer is currently required to comply with the requirements of the 2021 MSGP and has been required to comply with the requirements of the 2021 MSGP since July 1, 2021.

Schnitzer's Pollutant Control Requirements Under the MSGP

66. The MSGPs require Schnitzer to "select, design, install, and implement control measures (including best management practices) to minimize pollutant discharges [and] that address the selection and design considerations in Part 2.1.1, meet the non-numeric effluent limits in Part 2.1.2, . . . and meet the water quality-based effluent limitations in Part 2.2." 2015 MSGP § 2.1 at 14; 2021 MSGP § 2.1 at 18.

67. The MSGPs require Schnitzer to "minimize the exposure of manufacturing, processing, and material storage areas (including loading and unloading, storage, disposal, cleaning, maintenance, and fueling operations) to rain, snow, snowmelt and runoff by either locating these industrial materials and activities inside or protecting them with storm resistant coverings." 2015 MSGP § 2.1.2.1 at 15; 2021 MSGP § 2.1.2.1 at 20.

68. The MSGPs require Schnitzer to "keep clean all exposed areas that are potential sources of pollutants" and "perform good housekeeping measures in order to minimize pollutant discharges." 2015 MSGP § 2.1.2.2 at 15-16; 2021 MSGP 2.1.2.2 at 20-21.

69. The MSGPs require Schnitzer to "[s]weep or vacuum at regular intervals or, alternatively,

wash down the area and collect and/or treat, and properly dispose of the washdown water." *Id.*

70. The MSGPs require Schnitzer to "[m]inimize the potential for waste, garbage and floatable debris to be discharged by keeping exposed areas free of such materials, or by intercepting them before they are discharged." 2015 MSGP § 2.1.2.2 at 16; 2021 MSGP 2.1.2.2 at 21.

71. The MSGPs require Schnitzer to "maintain all control measures that are used to achieve the effluent limits in this permit in effective operating condition, as well as all industrial equipment and systems, in order to minimize pollutant discharges." 2015 MSGP § 2.1.2.3 at 16-17; 2021 MSGP 2.1.2.3 at 21-22.

72. The MSGPs require Schnitzer to "perform[] inspections and preventative maintenance of stormwater drainage, source controls, treatment systems, and plant equipment and systems that could fail and result in discharges of pollutants via stormwater." *Id.*

73. The MSGPs require Schnitzer to "clean[] catch basins when the depth of debris reaches two-thirds (2/3) of the sump depth . . . and keep[] the debris surface at least six inches below the lowest outlet pipe." *Id.*

74. The MSGPs require that if Schnitzer "find[s] that [its] control measures need routine maintenance, [it] must conduct the necessary maintenance immediately in order to minimize pollutant discharges." *Id.* If Schnitzer "find[s] that [its] control measures need to be repaired or replaced, [it] must immediately take all reasonable steps to prevent or minimize the discharge of pollutants until the final repair or replacement is implemented." *Id.*

75. The MSGPs require Schnitzer to "minimize the potential for leaks, spills, and other releases that may be exposed to stormwater and develop plans for effective response to such spills if or when they occur in order to minimize pollutant discharges. [It] must conduct spill

prevention and response measures" including measures listed in § 2.1.2.4 of the MSGPs. 2015 MSGP § 2.1.2.4 at 17; 2021 MSGP 2.1.2.4 at 22-23.

76. The MSGPs require Schnitzer to minimize erosion and discharge of sediment. 2015 MSGP § 2.1.2.5 at 17-18; 2021 MSGP 2.1.2.5 at 23.

77. The MSGPs require Schnitzer to "divert, infiltrate, reuse, contain, or otherwise reduce stormwater runoff to minimize pollutants in [its] discharges." 2015 MSGP § 2.1.2.6 at 18; 2021 MSGP 2.1.2.6 at 23.

78. The MSGPs require Schnitzer to "evaluate for the presence of non-stormwater discharges. . . If not covered under a separate NPDES permit, wastewater, wash water and any other unauthorized non-stormwater must be discharged to a sanitary sewer in accordance with applicable industrial pretreatment requirements, or otherwise disposed of appropriately." 2015 MSGP § 2.1.2.9 at 19; 2021 § 2.1.2.9 at 24.

79. The MSGPs require Schnitzer to "minimize generation of dust and off-site tracking of raw, final, or waste materials in order to minimize pollutants discharged via stormwater." 2015 MSGP § 2.1.2.10 at 19; 2021 MSGP 2.1.2.10 at 24.

80. Schnitzer is required to conduct routine facility inspections "of areas of the facility covered by the requirements in the [MSGPs]" at least quarterly. 2015 MSGP § 3.1 at 22-24; 2021 MSGP § 3.1 at 27-29.

81. The MSGPs require that "[d]uring an inspection occurring during a stormwater event or discharge, control measures implemented to comply with effluent limits must be observed to ensure they are functioning correctly." *Id.*

Schnitzer's Sector-Specific Pollutant Control Requirements Under the MSGPs

82. The MSGPs require Schnitzer to minimize the chance of accepting materials that could

be significant sources of pollutants by conducting inspections of inbound recyclables and waste materials and through implementation of control measures. 2015 MSGP § 8.N.3.1.1 at 125; 2021 MSGP § 8.N.3.1.1 at 158.

83. The MSGPs require Schnitzer to minimize contact of stormwater and/or stormwater runoff with stockpiled materials, processed materials, and nonrecyclable wastes through implementation of control measures. 2015 MSGP § 8.N.3.1.2 at 126; 2021 MSGP § 8.N.3.1.2 at 159.

84. The MSGPs require Schnitzer to minimize contact of stormwater and/or surface runoff with residual cutting fluids by storing all turnings exposed to cutting fluids under some form of permanent or semi-permanent cover or establishing dedicated containment areas for all turnings that have been exposed to cutting fluids. 2015 MSGP § 8.N.3.1.3 at 126; 2021 MSGP § 8.N.3.1.3 at 159.

85. The MSGPs require Schnitzer to minimize contact of residual liquids and particulate matter from materials stored indoors or under cover with stormwater and/or surface runoff through implementation of control measures. 2015 MSGP § 8.N.3.1.4 at 126; 2021 MSGP § 8.N.3.1.4 at 159.

86. The MSGPs require Schnitzer to minimize the contact of stormwater and/or surface runoff with scrap processing equipment and minimize the contact of accumulated particulate matter and residual fluids with stormwater and/or runoff. 2015 MSGP § 8.N.3.1.5 at 126; 2021 MSGP § 8.N.3.1.5 at 159.

87. The MSGPs require Schnitzer to "minimize the discharge of pollutants in stormwater from lead-acid batteries, properly handle, store, and dispose of scrap lead-acid batteries, and implement control measures." 2015 MSGP § 8.N.3.1.6 at 127; 2021 MSGP § 8.N.3.1.6 at 160.

Schnitzer's Monitoring and Reporting Requirements Under the MSGPs:

88. The MSGPs require Schnitzer "to collect and analyze stormwater samples" during "a storm event that results in an actual discharge from [the] site" "at least once in each of the following 3-month intervals: January 1—March 31; April 1—June 30; July 1—September 30; October 1—December 31." 2015 MSGP § 6, 6.1.3, 6.1.7 at 39-40; 2021 MSGP § 4, 4.1.3, 4.1.7 at 31-33.

89. Schnitzer is required to conduct quarterly benchmark monitoring for aluminum, copper, iron, lead, zinc, chemical oxygen demand ("COD"), and total suspended solids ("TSS"). 2015 MSGP § 6.2 at 40-41, § 8.N.6 at 129-130; 2021 MSGP § 4.2 at 33-35, § 8.N.7 at 163-164.

90. "When adverse weather conditions [such as flooding, high winds, electrical storms, or extended frozen conditions] prevent the collection of stormwater discharge samples according to the relevant [benchmark or impaired waters] monitoring schedule, [Schnitzer] must take a substitute sample during the next qualifying storm event." 2015 MSGP § 6.1.5 at 39-40; 2021 MSGP § 4.1.5 at 33.

91. Once each quarter for the entire MSGP term, Schnitzer must collect a stormwater sample from each outfall and conduct a visual assessment of each of these samples. 2015 MSGP § 3.2.1 at 24; 2021 MSGP § 3.2.1 at 29. Schnitzer "must visually inspect or observe the sample for the following water quality characteristics: color; odor; clarity (diminished); floating solids; settled solids; suspended solids; foam; oil sheen; and other obvious indicators of stormwater pollution." *Id.*; 2021 MSGP § 3.2.2.4 at 29-30.

92. "When adverse weather conditions prevent the collection of stormwater discharge sample(s) during the quarter [for visual assessment], Schnitzer must take a substitute sample during the next qualifying storm event. Documentation of the rationale for no visual assessment

for the quarter must be included with [Schnitzer's] SWPPP records." 2015 MSGP § 3.2.3 at 25; 2021 MSGP § 3.2.4.1 at 30.

93. The Facilities are "considered to discharge to an impaired water if the first water of the U.S. to which [it] discharges is identified by a state, tribe, or EPA pursuant to section 303(d) of the CWA as not meeting an applicable water quality standard . . ." 2015 MSGP § 6.2.4 at 45; 2021 MSGP § 4.2.5 at 42.

94. The 2015 MSGP requires Schnitzer to "monitor all pollutants for which the waterbody is impaired and for which a standard analytical method exists . . . once per year at each outfall (except substantially identical outfalls) discharging stormwater to impaired waters without an EPA-approved or established TMDL [Total Maximum Daily Load]. The MSGPs identify such monitoring as "impaired waters monitoring." 2015 MSGP § 6.2.4.1 at 45.

95. The 2021 MSGP requires Schnitzer to conduct impaired waters monitoring "annually in the first year of permit coverages and again in the fourth year of permit coverage. . . unless [it] detect[s] a pollutant causing an impairment, in which case annual monitoring must continue." 2021 MSGP § 4.2.5.1 at 42.

96. Schnitzer is required to conduct impaired waters monitoring for its discharges from the Bayamón Facility for arsenic, coliform, foaming agents, dissolved oxygen, selenium, turbidity, surfactants, and fecal coliform.

97. Schnitzer is required to conduct impaired waters monitoring for its discharges from the Caguas Facility for hexavalent chromium, nitrogen, phosphorus, surfactants, enterococcus, and fecal coliform.

98. Schnitzer is required to conduct impaired waters monitoring for its discharges from the Ponce Facility for enterococci, oil and grease, dissolved oxygen, temperature, turbidity, pH,

copper, and mercury.

99. Schnitzer is required to report its monitoring data to EPA using EPA's electronic NetDMR tool. 2015 MSGP § 6.1.9 at 40; 2021 MSGP § 4.1.9 at 33.

Schnitzer's Required Corrective Action and Additional Implementation Measures Under the MSGPs

100. The MSGPs require Schnitzer to take corrective action or Additional Implementation Measures ("AIMs") when the following triggering events occur: 1) "the average of four quarterly sampling results exceeds an applicable benchmark" or if less than four benchmark samples have been taken, "an exceedance of the four quarter average is mathematically certain (i.e., if the sum of quarterly sample results to date is more than four times the benchmark level)," 2015 MSGP at 27; 2021 MSGP at 39; 2) Schnitzer's control measures are not stringent enough for the discharge and/or the receiving water of the United States to meet applicable water quality standards or the non-numeric effluent limits in the MSGPs, 2015 MSGP at 27; 2021 MSGP at 45; 3) whenever a visual assessment shows evidence of stormwater pollution (e.g., color, odor, floating solids, settled solids, suspended solids, foam), *id.*; or 4) a required control measure was never installed, was installed incorrectly, or not in accordance with the MSGPs, or is not being properly operated or maintained, *id.*.

101. The MSGPs include sector-specific benchmarks for Sector N facilities like Schnitzer. 2015 MSGP § 8.N at 125-130; 2021 MSGP § 8.N at 158-164.

102. The benchmark values in the 2015 MSGP applicable to Schnitzer and not dependent on water hardness are: 0.75 milligrams per liter for aluminum; 1.0 milligrams per liter for iron; 120 milligrams per liter for COD; and 100 milligrams per liter for TSS. 2015 MSGP at 129-130.

103. The benchmark values in the 2021 MSGP applicable to Schnitzer and not dependent on water hardness are: 1.1 milligrams per liter for aluminum; 5.19 micrograms per liter for copper

(freshwater receiving water) or 4.8 micrograms per liter for copper (saltwater receiving water); 120 milligrams per liter for COD; 100 micrograms per liter for TSS. 2021 MSGP at 163-4.

104. The hardness of the receiving water for the Bayamón Facility is at or above 250 milligrams per liter.

105. The water-hardness dependent benchmark values in the 2015 MSGP applicable to the Bayamón Facility are: 0.0332 milligrams per liter for copper; 0.262 milligrams per liter for lead; and 0.26 milligrams per liter for zinc. 2015 MSGP § 8.N.6 at 129-130.

106. The water-hardness dependent benchmark values in the 2021 MSGP applicable to the Bayamón Facility are: 262 micrograms per liter for lead and 260 micrograms per liter for zinc. 2021 MSGP § 8.N.7 at 163-4.[1]

107. The hardness of the receiving water for the Caguas Facility is between 150 and 175.99 milligrams per liter.

108. The water-hardness dependent benchmark values in the 2015 MSGP applicable to the Caguas Facility are: 0.0221 milligrams per liter for copper; 0.151 milligrams per liter for lead; and 0.18 milligrams per liter for zinc. 2015 MSGP § 8.N.6 at 129-130.

109. The water-hardness dependent benchmark values in the 2021 MSGP applicable to the Caguas Facility are: 152 micrograms per liter for lead and 181 micrograms per liter for zinc. 2021 MSGP § 8.N.7 at 163-4.

110. The hardness of the receiving water for the Canovanas Facility is between 50 and 74.99 milligrams per liter.

111. The water-hardness dependent benchmark values in the 2015 MSGP applicable to the Canovanas Facility are: 0.0090 milligrams per liter for copper; 0.045 milligrams per liter for

[1] The benchmark value units of measurement for certain pollutant criteria change from milligrams per liter in the 2015 MSGP to micrograms per liter in the 2021 MSGP.

lead; and 0.08 milligrams per liter for zinc. 2015 MSGP § 8.N.6 at 129-130.

112. The water-hardness dependent benchmark values in the 2021 MSGP applicable to the Canovanas Facility are: 45 micrograms per liter for lead and 80 micrograms per liter for zinc. 2021 MSGP § 8.N.7 at 163-4.

113. The benchmark values for copper, lead, and zinc in the 2015 MSGP applicable to the Ponce Facility are: 0.0048 milligrams per liter for copper; 0.21 milligrams per liter for lead; and 0.09 milligrams per liter for zinc. 2015 MSGP § 8.N.6 at 129-130.

114. The water-hardness dependent benchmark values in the 2021 MSGP applicable to the Ponce Facility are: 210 micrograms per liter for lead; and 90 micrograms per liter for zinc. 2021 MSGP § 8.N.7 at 163-4.

115. Following a triggering event, Schnitzer is required to: 1) review and revise its SWPPP so that the MSGPs' effluent limits are met and pollutant discharges are minimized; 2) immediately take all reasonable steps necessary to minimize or prevent the discharge of pollutants until a permanent solution is installed and made operational; and 3) if necessary, "complete the corrective actions. . . before the next storm event if possible, and within 14 calendar days from the time of discovery of the corrective action condition." 2015 MSGP §§ 4.1 at 27, 4.3.1 at 28, 4.3.2 at 28; 2021 MSGP §§ 5.1.1 § 45, 5.1.3.1 at 46, 5.1.3.2 at 46.

Schnitzer's State Water Quality Standards Requirements

116. Under the MSGPs, Schnitzer is required to control its stormwater discharges "as necessary to meet applicable water quality standards of all affected states." 2015 MSGP § 2.2.1 at 20; 2021 MSGP § 2.2.1 at 25.

117. Schnitzer's discharge must not cause or contribute to an exceedance of applicable water quality standards in any affected state. 2015 MSGP § 2.2.1 at 20.

118. The MSGPs require that if at any time Schnitzer becomes aware that its discharge does not meet applicable water quality standards or its stormwater discharge will not be controlled as necessary such that the receiving water of the United States will not meet an applicable water quality standard, Schnitzer must take corrective action(s) and document the corrective actions. 2015 MSGP § 2.2.1 at 20; 2021 MSGP § 2.2.1 at 25.

119. If Schnitzer finds that its control measures are not achieving their intended effect of minimizing pollutant discharges to meet applicable water standards or any of the other non-numeric effluent limits in the MSGP, Schnitzer must modify these control measures per the corrective action requirements. 2015 MSGP § 2.1 at 14; 2021 MSGP § 2.1 at 18.

<u>The Facilities and Their Operations and Discharges</u>

120. Defendants Schnitzer Steel and Schnitzer Puerto Rico have operated, and continue to operate, a scrap metal facility at Road #2 KM 7.7, Corujo Industrial Park in Bayamón, Puerto Rico 00960 02703 (the "Bayamón Facility").

121. Defendants Schnitzer Steel and Schnitzer Puerto Rico have operated, and continue to operate, a scrap metal facility at Road PR-1 KM 30.0 INT., in Caguas, Puerto Rico 00726 (the "Caguas Facility").

122. Defendants Schnitzer Steel and Schnitzer Puerto Rico have operated, and continue to operate, a scrap metal facility at Lot 61, Road PR-188, San Isidro Industrial Park in Canovanas, Puerto Rico 00729 (the "Canovanas Facility").

123. Defendants Schnitzer Steel and Schnitzer Puerto Rico have operated, and continue to operate, a scrap metal facility at Port of Ponce Processed Material Staging Area, located at Road PR-123 Final in Ponce, Puerto Rico 00731 (the "Ponce Facility").

124. Schnitzer collects and/or processes raw scrap metal, including salvaged vehicles, rail cars, household scrap and appliances, industrial machinery, manufacturing scrap, and

construction and demolition scrap at the Facilities.

125. Schnitzer receives unprocessed scrap metal at the Facilities, which it stores in uncovered piles on-site that are exposed to precipitation and snowmelt.

126. Schnitzer's processing activities include crushing, torching, shearing, shredding, separating, sorting, and/or baling of scrap metal.

127. Most of Schnitzer's scrap processing operations are conducted outdoors.

128. Processed metal is stored at the Facilities in uncovered bales that are exposed to precipitation and snowmelt.

129. The Facilities store petroleum hydrocarbons onsite, including bulk fuel storage in aboveground storage tanks that are exposed to precipitation and snowmelt.

130. Upon information and belief, the Facilities' handling and/or storage of oil, grease, petroleum hydrocarbons, and/or fuel have resulted in spills, leaks, and/or slicks at the Facilities.

131. Upon information and belief, spills, leaks, and/or slicks of oil, grease, petroleum hydrocarbons, and/or fuel at the Facilities have been exposed to precipitation and snowmelt.

132. Schnitzer uses a crane to transfer processed and/or unprocessed scrap metal from a ship or truck to the Ponce Facility.

133. Upon information and belief, as Schnitzer loads and/or unloads scrap metal from a ship or truck via crane, dust is generated which directly enters the Caribbean Sea and is discharged from the Ponce Facility in stormwater.

134. Processed and unprocessed scrap metal, end-of-life vehicles, machinery, equipment, oil, fuel, and chemical storage tanks, batteries, and vehicles are exposed to precipitation and snowmelt at the Facilities.

135. Precipitation and snowmelt at the Facilities become contaminated with heavy metals, dust

and solids, organic contaminants including fuel and oil, trash, and other pollutants associated with the Facilities' operations.

136. The sources of pollutants associated with industrial operations at the Facilities include: unprocessed scrap metal including end-of-life vehicles, appliances, machinery, and other scrap; bales of processed scrap metal; machines and equipment left outdoors; and vehicles driving on and off the Facilities.

137. Pollutants associated with industrial operations at the Facilities include, but are not limited to: heavy metals, suspended solids, debris, solvents, dust, low density waste (floatables), oil, fuel, trash, and other pollutants associated with the Facilities' operations.

138. During every measurable precipitation event and every instance of snowmelt, water flows onto and over exposed materials and accumulated pollutants at the Facilities, generating stormwater runoff.

139. EPA considers precipitation above 0.1 inches during a 24-hour period a measurable precipitation event. 40 C.F.R. § 122.26(c)(i)(E)(6).

140. Upon information and belief, a measurable precipitation event is sufficient to generate runoff from the Facilities.

141. Stormwater runoff from the Facilities is collected, channeled, and conveyed via site grading, slopes, site infrastructure, the operation of gravity, and other conveyances into waters of the United States.

142. Schnitzer has discharged, and continues to discharge, stormwater associated with industrial activities from the Facilities into waters of the United States.

143. Upon information and belief, the Bayamón Facility's SWPPP has not been modified in response to conditions requiring SWPPP review and revision, per § 4.1 of the 2015 MSGP and

§ 5.1.1 of the 2021 MSGP, since at least December 2016.

144. Upon information and belief, the Caguas Facility's SWPPP has not been modified in response to conditions requiring SWPPP review and revision, per § 4.1 of the 2015 MSGP and § 5.1.1 of the 2021 MSGP, since at least December 2016.

145. Upon information and belief, the Canovanas Facility's SWPPP has not been modified in response to conditions requiring SWPPP review and revision, per § 4.1 of the 2015 MSGP and § 5.1.1 of the 2021 MSGP, since at least December 2016.

146. Upon information and belief, the Ponce Facility's SWPPP has not been modified in response to conditions requiring SWPPP review and revision, per § 4.1 of the 2015 MSGP and § 5.1.1 of the 2021 MSGP, since at least December 2016.

147. Schnitzer's operations cause the discharge of pollutants – including but not limited to aluminum, copper, iron, lead, zinc, COD, and TSS – from the Facilities.

148. At the Bayamón Facility, Schnitzer discharges pollutants – including but not limited to aluminum, copper, iron, lead, zinc, COD, and TSS – from three outfalls: Outfalls 001, 002, and 003 to the Río Hondo.

149. At the Caguas Facility, Schnitzer discharges pollutants – including but not limited to aluminum, copper, iron, lead, zinc, COD, and TSS – from Outfall 001 to a tributary creek of the Río Bairoa.

150. At the Canovanas Facility, Schnitzer discharges pollutants – including but not limited to aluminum, copper, iron, lead, zinc, COD, and TSS – from Outfall 001 to an unnamed creek within the coastal watershed between the Río Sabana and the Río Grande de Loiza.

151. At the Ponce Facility, Schnitzer discharges pollutants – including but not limited to aluminum, copper, iron, lead, zinc, COD, and TSS – from Outfall 001 to the Caribbean Sea.

The Waterbodies Affected by the Facilities' Discharges

The Río Hondo

152. The Bayamón Facility discharges pollutants into the Río Hondo (waterbody segment PRER11A).

153. The Río Hondo was listed as impaired on the 2020 303(d) list for all designated uses, including aquatic life and primary and secondary contact recreation, from dissolved oxygen and surfactants.

154. The Río Hondo is impaired for primary and secondary contact recreation from fecal coliform.

155. In 2012, the Puerto Rico Environmental Quality Board prepared a Fecal Coliform Bacteria Total Maximum Daily Loads ("TMDL") for Assessment Units in the Government of Puerto Rico for waterbodies in Puerto Rico, including the Río Hondo.

156. The sources of impairment for the Río Hondo include urban runoff and storm sewers.

157. The Río Hondo is a Class SD waterbody.

158. The Río Hondo flows into the Ensenada de Boca Vieja Bay and the Atlantic Ocean five miles downstream from the Bayamón Facility.

159. The Río Hondo is a navigable water within the meaning of the Clean Water Act.

160. The Río Hondo is used for primary and secondary recreation and aesthetic purposes by residents and visitors, including swimming, natural waterslides and pools, and riverfront parks.

The Río Bairoa

161. The Caguas Facility discharges pollutants into the Río Bairoa (waterbody PRER14H).

162. The Río Bairoa is listed as impaired on the 2020 303(d) list for all designated uses, including aquatic life and primary and secondary contact recreation, from hexavalent chromium, nitrogen, phosphorus, surfactants, and enterococcus.

163. The Río Bairoa is impaired for primary and secondary contact recreation from fecal coliform.

164. The sources of impairment for the Río Bairoa include industrial point source discharge, urban runoff, and storm sewers.

165. The Río Bairoa is used for aesthetic and secondary recreational uses, as well as for wildlife observation.

166. The Río Bairoa is a tributary to the Río Grande de Loiza.

167. The Río Bairoa flows into the Río Grande de Loiza at waterbody segment PREL14A1 around 0.6 miles downstream from the Caguas Facility.

168. In 2017, EPA approved a Total Maximum Daily Loads (“TMDL”) and Implementation Plan for Puerto Rico: Copper, Lead, and Mercury for waterbodies in Puerto Rico including the Río Grande de Loiza.

169. The Río Grande de Loiza has recreational, environmental, aesthetic, historical, and literary significance.

170. The Río Grande de Loiza joins Lago Loiza 4.5 miles downstream from the Caguas Facility.

171. The segment of the Río Grande de Loiza between Río Bairoa and Lago Loiza, as well as Lago Loiza itself, are identified together as waterbody PREL14A1.

172. Waterbody PREL14A1 is listed as impaired on the 2020 303(d) list for all designated uses, including aquatic life and primary and secondary contact recreation, from copper, dissolved oxygen, lead, pH, temperature, nitrogen, phosphorus, and turbidity.

173. The sources of impairment for waterbody PREL14A1 include urban runoff and storm sewers.

174. Lago Loiza is a water-supply reservoir and the main source of drinking water for the San Juan Metropolitan area.

175. Lago Loiza is an important water source as well as a popular resource for fishing, boating, birdwatching, hiking, observing wildlife, and a variety of aesthetic uses and secondary and primary contact recreational uses.

176. The Río Bairoa, the Río Grande de Loiza, and Lago Loiza are Class SD waterbodies.

177. The Río Bairoa, the Río Grande de Loiza, and Lago Loiza are navigable waters within the meaning of the Clean Water Act.

The Unnamed Creek

178. The Canovanas Facility discharges pollutants into an unnamed creek which flows within the coastal watershed between Río Sabana and Río Grande de Loiza (the "Unnamed Creek").

179. The Unnamed Creek joins the coastal waterbody classified by EPA as "Coastal Watersheds between Rio Sabana and Rio Grande de Loiza" and identified by the EPA hydrologic unit code 210100050309 (the "Coastal Watersheds") 0.8 miles downstream from the Canovanas Facility.

180. The Coastal Watersheds connects to the Río Grande de Loiza Estuary (waterbody PREE14A)

181. The Río Grande de Loiza Estuary is impaired for primary and secondary contact recreation from fecal coliform.

182. The sources of impairment for the Río Grande de Loiza Estuary include urban runoff and storm sewers.

183. The Unnamed Creek, the Coastal Watersheds, and the Río Grande de Loiza Estuary are Class SB waterbodies and waters of the United States.

184. The Unnamed Creek, the Coastal Watersheds, and the Río Grande de Loiza Estuary are navigable waters within the meaning of the Clean Water Act.

Caribbean Sea

185. The Ponce Facility discharges pollutants into the Caribbean Sea.

186. The Ponce Facility discharges pollutants into the embayment identified as "Punta Carenero to Punta Cuchara" and classified as waterbody PRSC36C.

187. Waterbody PRSC36C is listed on the 2020 303(d) list as impaired for aquatic life and primary and secondary contact recreation due to copper, dissolved oxygen, oil and grease, enterococci, mercury, and turbidity.

188. The sources of impairment for waterbody PRSC36C include urban runoff and storm sewers.

189. The Caribbean Sea and waterbody PRSC36C are Class SB waters.

190. The Caribbean Sea and waterbody PRSC36C are navigable waters within the meaning of the Clean Water Act.

191. The Caribbean Sea and waterbody PRSC36C are used for swimming, beach-going, watersports, wildlife observation, and other aesthetic and recreational uses.

<u>DEFENDANTS' VIOLATIONS OF THE CLEAN WATER ACT</u>

<u>Effluent and Water Quality Standards Violations</u>

192. The Facilities have failed, and continue to fail, to use control measures to minimize pollutant discharges.

193. The Facilities have discharged, and continue to discharge, pollutants (including but not limited to discharges of aluminum, copper, iron, lead, zinc, organic materials measured as COD, solids, foam, oil and grease, and other odiferous and discolored pollutants) that have contributed to, and will continue to contribute to, degradation of the Río Hondo, the Río Bairoa, the Río

Grande de Loiza, Lago Loiza, the Unnamed Creek, the Río Grande de Loiza Estuary, and the Caribbean Sea, including the violation of state water quality standards.

194. The discharge of pollutants from the Facilities has resulted in unnatural and objectionable odor, color, taste, and/or turbidity in the Río Hondo, the Río Bairoa, the Río Grande de Loiza, Lago Loiza, the Unnamed Creek, the Río Grande de Loiza Estuary, and the Caribbean Sea.

195. The discharge of pollutants from the Facilities has resulted in floating, suspended, and settleable solids; scum; benthic deposits; oil and grease; and/or harmful concentrations or combinations of chemical constituents in the Río Hondo, the Río Bairoa, the Río Grande de Loiza, Lago Loiza, the Unnamed Creek, the Río Grande de Loiza Estuary, and the Caribbean Sea.

196. The discharge of pollutants from the Bayamón Facility has contributed to the impairments of the Río Hondo (waterbody PRER11A) for aesthetic use, primary contact recreation, and secondary contact recreation from dissolved oxygen and surfactants.

197. The discharge of pollutants from the Caguas Facility has contributed to the impairments of the Río Bairoa (waterbody PRER14H) for aquatic life and primary and secondary contact recreation from surfactants.

198. The discharge of pollutants from the Caguas Facility has contributed to the impairments of the Río Grande de Loiza and Lago Loiza (waterbody segment PREL14A1) for aquatic life and primary and secondary contact recreation from copper, dissolved oxygen, lead, and turbidity.

199. The discharge of pollutants from the Ponce Facility has contributed to the impairments of the Caribbean Sea at waterbody PRSC36C for aquatic life and primary and secondary contact recreation due to copper, dissolved oxygen, oil and grease, and turbidity.

200. Upon information and belief, CLF expects that discovery will reveal additional

discharges of pollutants causing or contributing to violations of Puerto Rico water quality standards.

201. Upon information and belief, CLF expects that discovery will reveal additional violations of the MSGPs.

Pollutant: Aluminum

202. The Facilities' discharges of aluminum contribute to the degradation of the Río Hondo, the Río Bairoa, the Río Grande de Loiza, Lago Loiza, the Unnamed Creek, the Río Grande de Loiza Estuary, and the Caribbean Sea, and to the violation of water quality standards for Puerto Rico.

203. Aluminum is toxic to fish and many aquatic animals. It bioaccumulates in certain types of plants and in some fish and invertebrate species.

204. Skin exposure to aluminum may cause rashes. When ingested, aluminum may cause health problems in humans such as bone disease, brain disease, and Alzheimer's disease.

205. The Facilities' quarterly discharge monitoring reports show that they have discharged aluminum every quarter for which monitoring was conducted since the fourth quarter of 2016.

206. The Facilities have failed, and continue to fail, to use control measures to minimize discharges of aluminum.

207. The Bayamón Facility has discharged concentrations of aluminum higher than the 2015 MSGP benchmark value for aluminum of 0.75 milligrams per liter and/or the 2021 MSGP benchmark value for aluminum of 1,100 micrograms per liter three times between the fourth quarter of 2019 and the third quarter of 2021, as detailed in the below table.

Par. No.	**Pollutant Criteria**	**Monitoring Period End Date**	**Outfall**	**Benchmark Value**	**Measured Value**	**Limit Exceedance Percent**
208.	Aluminum	12/31/2019	001	0.75 mg/L	5.48 mg/L	731%

209.	Aluminum	12/31/2019	002	0.75 mg/L	4.76 mg/L	635%
210.	Aluminum	9/30/2021	001	1,100 µg/L	2,000 µg/L	182%

211. The Caguas Facility has discharged concentrations of aluminum higher than the 2015 MSGP benchmark value for aluminum of 0.75 milligrams per liter and/or the 2021 MSGP benchmark value for aluminum of 1,100 micrograms per liter five times between the fourth quarter of 2018 and the fourth quarter of 2021, as detailed in the below table.

Par. No.	Pollutant Criteria	Monitoring Period End Date	Outfall	Benchmark Value	Measured Value	Limit Exceedance Percent
212.	Aluminum	12/31/2018	001	0.75 mg/L	3.58 mg/L	477%
213.	Aluminum	3/31/2019	001	0.75 mg/L	2.96 mg/L	395%
214.	Aluminum	12/31/2020	001	0.75 mg/L	0.945 mg/L	126%
215.	Aluminum	9/30/2021	001	1,100 µg/L	1,350 µg/L	123%
216.	Aluminum	12/31/2021	001	1,100 µg/L	1,340 µg/L	122%

217. The Canovanas Facility discharged concentrations of aluminum higher than the 2015 MSGP benchmark value for aluminum of 0.75 milligrams per liter and/or the 2021 MSGP benchmark value for aluminum of 1,100 micrograms per liter four times between the fourth quarter of 2018 and the fourth quarter of 2021, as detailed in the below table.

Par. No.	Pollutant Criteria	Monitoring Period End Date	Outfall	Benchmark Value	Measured Value	Limit Exceedance Percent
218.	Aluminum	12/31/2018	001	0.75 mg/L	0.981 mg/L	131%
219.	Aluminum	9/30/2020	001	0.75 mg/L	2.17 mg/L	289%
220.	Aluminum	9/30/2021	001	1,100 µg/L	2,100 µg/L	191%
221.	Aluminum	12/31/2021	001	1,100 µg/L	2,400 µg/L	218%

222. Schnitzer's four-quarter average aluminum concentrations at the Bayamón Facility have exceeded the 2015 MSGP benchmark value of 0.75 milligrams per liter and/or the 2021 MSGP benchmark value of 1,100 micrograms per liter five times since the fourth quarter of 2016.

223. Schnitzer's discharges of aluminum from the Bayamón Facility have triggered the MSGPs' corrective action and/or AIM requirements five times since the fourth quarter of 2016,

as detailed in the below table.

Par. No.	Pollutant Criteria	Date Corrective Action Triggered	Outfall	Benchmark Value	Annual Average[2]
224.	Aluminum	12/31/2019	001	0.75 mg/L	5.48 mg/L
225.	Aluminum	12/31/2019	002	0.75 mg/L	4.76 mg/L
226.	Aluminum	12/31/2020	001	0.75 mg/L	2.79 mg/L
227.	Aluminum	3/31/2021	001	0.75 mg/L	2.06 mg/L
228.	Aluminum	3/31/2021	002	0.75 mg/L	2.42 mg/L

229. Schnitzer's four-quarter average aluminum concentrations at the Caguas Facility have exceeded the 2015 MSGP benchmark value of 0.75 milligrams per liter five times since the fourth quarter of 2016.

230. Schnitzer's discharges of aluminum from the Caguas Facility have triggered the MSGPs' corrective action and/or AIM requirements five times since the fourth quarter of 2016, as detailed in the below table.

Par. No.	Pollutant Criteria	Date Corrective Action Triggered	Outfall	Benchmark Value	Annual Average
231.	Aluminum	12/31/2018	001	0.75 mg/L	3.58 mg/L
232.	Aluminum	3/31/2019	001	0.75 mg/L	3.27 mg/L
233.	Aluminum	9/30/2019	001	0.75 mg/L	2.37 mg/L
234.	Aluminum	12/31/2020	001	0.75 mg/L	2.02 mg/L
235.	Aluminum	3/31/2021	001	0.75 mg/L	1.21 mg/L

236. Schnitzer's four-quarter average aluminum concentrations at the Canovanas Facility have exceeded the 2015 MSGP benchmark value of 0.75 milligrams per liter and/or the 2021 MSGP benchmark value of 1,100 micrograms per liter three times since the fourth quarter of 2016.

237. Schnitzer's discharges of aluminum from the Canovanas Facility have triggered the MSGPs' corrective action and/or AIM requirements three times since the fourth quarter of 2016,

[2] Either the four-quarter annual average or the measured value where an exceedance is mathematically certain (i.e., the sum of a quarterly sample results to date is already more than four times the benchmark threshold).

as detailed in the below table.

Par. No.	Pollutant Criteria	Date Corrective Action Triggered	Outfall	Benchmark Value	Annual Average
238.	Aluminum	9/30/2020	001	0.75 mg/L	1.06 mg/L
239.	Aluminum	3/31/2021	001	0.75 mg/L	0.847 mg/L
240.	Aluminum	12/31/2021	001	1,100 µg/L	4,500 µg/L

Pollutant: Copper

241. The Facilities' discharges of copper contribute to the degradation of the Río Hondo, the Río Bairoa, the Río Grande de Loiza, Lago Loiza, the Unnamed Creek, the Río Grande de Loiza Estuary, and the Caribbean Sea, and to the violation of water quality standards for Puerto Rico.

242. Copper is toxic to aquatic animals and it bioconcentrates in mollusks.

243. The ingestion of copper can be dangerous for humans. Consuming too much copper may cause liver and kidney damage, increased risk of heart disease, nausea, vomiting, abdominal pain and diarrhea, and even death.

244. Stormwater runoff is a major source of elevated copper levels in river water.

245. The Facilities' quarterly discharge monitoring reports show that they have discharged copper every quarter for which monitoring was conducted since the fourth quarter of 2016.

246. The Facilities have failed, and continue to fail, to use control measures to minimize discharges of copper.

247. The Bayamón Facility has discharged concentrations of copper higher than the 2015 MSGP benchmark value for copper of 33.2 micrograms per liter and/or the 2021 MSGP benchmark value for copper of 5.19 micrograms per liter 13 times between the fourth quarter of 2019 and the fourth quarter of 2021, as detailed in the below table.

Par. No.	Pollutant Criteria	Monitoring Period End Date	Outfall	Benchmark Value	Measured Value	Limit Exceedance Percent

248.	Copper	12/31/2019	001	33.2 µg/L	149 µg/L	449%
249.	Copper	12/31/2019	002	33.2 µg/L	151 µg/L	455%
250.	Copper	12/31/2020	001	33.2 µg/L	73 µg/L	220%
251.	Copper	12/31/2020	003	33.2 µg/L	76 µg/L	229%
252.	Copper	3/31/2021	001	33.2 µg/L	91 µg/L	274%
253.	Copper	3/31/2021	002	33.2 µg/L	33.8 µg/L	102%
254.	Copper	3/31/2021	003	33.2 µg/L	53 µg/L	160%
255.	Copper	9/30/2021	001	5.19 µg/L	76 µg/L	1,464%
256.	Copper	9/30/2021	002	5.19 µg/L	33 µg/L	636%
257.	Copper	9/30/2021	003	5.19 µg/L	19 µg/L	366%
258.	Copper	12/31/2021	001	5.19 µg/L	29 µg/L	559%
259.	Copper	12/31/2021	002	5.19 µg/L	30 µg/L	578%
260.	Copper	12/31/2021	003	5.19 µg/L	28 µg/L	539%

261. The Caguas Facility has discharged concentrations of copper higher than the 2015 MSGP benchmark value for copper of 22.1 micrograms per liter and/or the 2021 MSGP benchmark value for copper of 5.19 micrograms per liter six times between the fourth quarter of 2018 and the fourth quarter of 2021, as detailed in the below table.

Par. No.	**Pollutant Criteria**	**Monitoring Period End Date**	**Outfall**	**Benchmark Value**	**Measured Value**	**Limit Exceedance Percent**
262.	Copper	12/31/2018	001	22.1 µg/L	35 µg/L	158%
263.	Copper	3/31/2019	001	22.1 µg/L	71 µg/L	321%
264.	Copper	12/31/2020	001	22.1 µg/L	75 µg/L	339%
265.	Copper	3/31/2021	001	22.1 µg/L	34 µg/L	154%
266.	Copper	9/30/2021	001	5.19 µg/L	52 µg/L	1,002%
267.	Copper	12/31/2021	001	5.19 µg/L	71 µg/L	1,368%

268. The Canovanas Facility discharged concentrations of copper higher than the 2015 MSGP benchmark value for copper of 9 micrograms per liter and/or the 2021 MSGP benchmark value for copper of 5.19 micrograms per liter seven times between the fourth quarter of 2018 and the fourth quarter of 2021, as detailed in the below table.

Par. No.	**Pollutant Criteria**	**Monitoring Period End Date**	**Outfall**	**Benchmark Value**	**Measured Value**	**Limit Exceedance Percent**
269.	Copper	12/31/2018	001	9 µg/L	35 µg/L	389%
270.	Copper	3/31/2019	001	9 µg/L	22 µg/L	244%

271.	Copper	9/30/2019	001	9 µg/L	23 µg/L	256%
272.	Copper	9/30/2020	001	9 µg/L	66 µg/L	733%
273.	Copper	3/31/2021	001	9 µg/L	46 µg/L	511%
274.	Copper	9/30/2021	001	5.19 µg/L	51 µg/L	983%
275.	Copper	12/31/2021	001	5.19 µg/L	33 µg/L	636%

276. The Ponce Facility discharged concentrations of copper higher than the MSGPs' benchmark value for copper of 4.8 micrograms per liter nine times between the second quarter of 2018 and the fourth quarter of 2021, as detailed in the below table.

Par. No.	Pollutant Criteria	Monitoring Period End Date	Outfall	Benchmark Value	Measured Value	Limit Exceedance Percent
277.	Copper	3/31/2018	001	4.8 µg/L	5 µg/L	104%
278.	Copper	9/30/2018	001	4.8 µg/L	8 µg/L	167%
279.	Copper	3/31/2019	001	4.8 µg/L	6 µg/L	125%
280.	Copper	9/30/2019	001	4.8 µg/L	70 µg/L	1458%
281.	Copper	6/30/2020	001	4.8 µg/L	35 µg/L	729%
282.	Copper	9/30/2020	001	4.8 µg/L	21 µg/L	438%
283.	Copper	12/31/2020	001	4.8 µg/L	30 µg/L	625%
284.	Copper	9/30/2021	001	4.8 µg/L	37 µg/L	771%
285.	Copper	12/31/2021	001	4.8 µg/L	44 µg/L	917%

286. Schnitzer's four-quarter average copper concentrations at the Bayamón Facility have exceeded the 2015 MSGP benchmark value for copper of 33.2 micrograms per liter and/or the 2021 MSGP benchmark value of 5.19 micrograms per liter 11 times since the fourth quarter of 2016.

287. Schnitzer's discharges of copper from the Bayamón Facility have triggered the MSGPs' corrective action and/or AIM requirements 11 times since the fourth quarter of 2016, as detailed in the below table.

Par. No.	Pollutant Criteria	Date Corrective Action Triggered	Outfall	Benchmark Value	Annual Average
288.	Copper	12/31/2019	001	33.2 µg/L	149 µg/L
289.	Copper	12/31/2019	002	33.2 µg/L	151 µg/L
290.	Copper	12/31/2020	001	33.2 µg/L	111 µg/L

291.	Copper	3/31/2021	001	33.2 µg/L	104 µg/L
292.	Copper	3/31/2021	002	33.2 µg/L	92.4 µg/L
293.	Copper	3/31/2021	003	33.2 µg/L	49 µg/L
294.	Copper	9/30/2021	001	5.19 µg/L	76 µg/L
295.	Copper	9/30/2021	002	5.19 µg/L	33 µg/L
296.	Copper	12/31/2021	001	5.19 µg/L	29 µg/L
297.	Copper	12/31/2021	002	5.19 µg/L	30 µg/L
298.	Copper	12/31/2021	003	5.19 µg/L	28 µg/L

299. Schnitzer's four-quarter average copper concentrations at the Caguas Facility have exceeded the 2015 MSGP benchmark value for copper of 22.1 micrograms per liter and/or the 2021 MSGPs' benchmark value of 5.19 micrograms per liter six times since the fourth quarter of 2016.

300. Schnitzer's discharges of copper from the Caguas Facility have triggered the MSGPs' corrective action and/or AIM requirements six times since the fourth quarter of 2016, as detailed in the below table.

Par. No.	**Pollutant Criteria**	**Date Corrective Action Triggered**	**Outfall**	**Benchmark Value**	**Annual Average**
301.	Copper	3/31/2019	001	22.1 µg/L	53 µg/L
302.	Copper	9/30/2019	001	22.1 µg/L	40.7 µg/L
303.	Copper	12/31/2020	001	22.1 µg/L	49.2 µg/L
304.	Copper	3/31/2021	001	22.1 µg/L	49 µg/L
305.	Copper	9/30/2021	001	5.19 µg/L	52 µg/L
306.	Copper	12/31/2021	001	5.19 µg/L	71 µg/L

307. Schnitzer's four-quarter average copper concentrations at the Canovanas Facility have exceeded the 2015 MSGP benchmark value for copper of 9 micrograms per liter and/or the 2021 MSGP benchmark value of 5.19 micrograms per liter six times since the fourth quarter of 2016.

308. Schnitzer's discharges of copper from the Canovanas Facility have triggered the MSGPs' corrective action and/or AIM requirements six times since the fourth quarter of 2016, as detailed in the below table.

Par. No.	Pollutant Criteria	Date Corrective Action Triggered	Outfall	Benchmark Value	Annual Average
309.	Copper	3/31/2019	001	9 µg/L	28.5 µg/L
310.	Copper	9/30/2019	001	9 µg/L	26.7 µg/L
311.	Copper	9/30/2020	001	9 µg/L	36.5 µg/L
312.	Copper	3/31/2021	001	9 µg/L	39.2 µg/L
313.	Copper	9/30/2021	001	5.19 µg/L	51 µg/L
314.	Copper	12/31/2021	001	5.19 µg/L	33 µg/L

315. Schnitzer's four-quarter average copper concentrations at the Ponce Facility have exceeded the 2015 MSGP benchmark value of 4.8 micrograms per liter eight times since the fourth quarter of 2016.

316. Schnitzer's discharges of copper from the Ponce Facility have triggered the MSGPs' corrective action and/or AIM requirements eight times since the fourth quarter of 2016, as detailed in the below table.

Par. No.	Pollutant Criteria	Date Corrective Action Triggered	Outfall	Benchmark Value	Annual Average
317.	Copper	9/30/2019	001	4.8 µg/L	22.2 µg/L
318.	Copper	12/31/2019	001	4.8 µg/L	21 µg/L
319.	Copper	3/31/2020	001	4.8 µg/L	19.5 µg/L
320.	Copper	6/30/2020	001	4.8 µg/L	26.8 µg/L
321.	Copper	9/30/2020	001	4.8 µg/L	14.5 µg/L
322.	Copper	12/31/2020	001	4.8 µg/L	22 µg/L
323.	Copper	9/30/2021	001	4.8 µg/L	37 µg/L
324.	Copper	12/31/2021	001	4.8 µg/L	44 µg/L

Pollutant: Iron

325. The Facilities' discharges of iron contribute to the degradation of the Río Hondo, the Río Bairoa, the Río Grande de Loiza, Lago Loiza, the Unnamed Creek, the Río Grande de Loiza Estuary, and the Caribbean Sea, and to the violation of water quality standards for Puerto Rico.

326. Iron harms aquatic environments by causing turbidity and suspended solids. Iron solids in the water smother invertebrates, microbes, and eggs; impair the respiration of aquatic animals;

and decrease reproduction rates.

327. Iron harms humans both as a substance that is toxic in high amounts and as a nuisance. Iron in drinking water impairs taste, clogs pipes, and causes stains.

328. The Facilities' quarterly discharge monitoring reports show that they have discharged iron every quarter for which monitoring was conducted since the fourth quarter of 2016.

329. The Facilities have failed, and continue to fail, to use control measures to minimize discharges of iron.

330. The Bayamón Facility has discharged concentrations of iron higher than the 2015 MSGP benchmark value for iron of 1 milligram per liter three times between the fourth quarter of 2019 and the fourth quarter of 2020, as detailed in the below table.

Par. No.	**Pollutant Criteria**	**Monitoring Period End Date**	**Outfall**	**Benchmark Value**	**Measured Value**	**Limit Exceedance Percent**
331.	Iron	12/31/2019	001	1 mg/L	1.21 mg/L	121%
332.	Iron	12/31/2019	002	1 mg/L	1.58 mg/L	158%
333.	Iron	12/31/2020	003	1 mg/L	3.11 mg/L	311%

334. The Caguas Facility has discharged concentrations of iron higher than the 2015 MSGP benchmark value for iron of 1 milligram per liter four times between the fourth quarter of 2018 and the first quarter of 2021, as detailed in the below table.

Par. No.	**Pollutant Criteria**	**Monitoring Period End Date**	**Outfall**	**Benchmark Value**	**Measured Value**	**Limit Exceedance Percent**
335.	Iron	12/31/2018	001	1 mg/L	6.16 mg/L	616%
336.	Iron	3/31/2019	001	1 mg/L	5.7 mg/L	570%
337.	Iron	12/31/2020	001	1 mg/L	1.29 mg/L	129%
338.	Iron	3/31/2021	001	1 mg/L	1.19 mg/L	119%

339. The Canovanas Facility discharged concentrations of iron higher than the 2015 MSGP benchmark value for iron of 1 milligram per liter four times between the fourth quarter of 2018 and the third quarter of 2020, as detailed in the below table.

Par. No.	Pollutant Criteria	Monitoring Period End Date	Outfall	Benchmark Value	Measured Value	Limit Exceedance Percent
340.	Iron	12/31/2018	001	1 mg/L	1.43 mg/L	143%
341.	Iron	3/31/2019	001	1 mg/L	1.3 mg/L	130%
342.	Iron	9/30/2019	001	1 mg/L	1.4 mg/L	140%
343.	Iron	9/30/2020	001	1 mg/L	3.38 mg/L	338%

344. The Ponce Facility discharged concentrations of iron higher than the 2015 MSGP benchmark value for iron of 1 milligram per liter in the third quarter of 2019, as detailed in the below table.

Par. No.	Pollutant Criteria	Monitoring Period End Date	Outfall	Benchmark Value	Measured Value	Limit Exceedance Percent
345.	Iron	9/30/2019	001	1 mg/L	1.57 mg/L	157%

346. Schnitzer's four-quarter average iron concentrations at the Caguas Facility have exceeded the 2015 MSGP benchmark value of 1 milligram per liter five times since the fourth quarter of 2016.

347. Schnitzer's discharges of iron from the Caguas Facility have triggered the 2015 MSGP corrective action and/or AIM requirements five times since the fourth quarter of 2016, as detailed in the below table.

Par. No.	Pollutant Criteria	Date Corrective Action Triggered	Outfall	Benchmark Value	Annual Average
348.	Iron	12/31/2018	001	1 mg/L	6.16 mg/L
349.	Iron	3/31/2019	001	1 mg/L	5.93 mg/L
350.	Iron	9/30/2019	001	1 mg/L	4.09 mg/L
351.	Iron	12/31/2020	001	1 mg/L	3.39 mg/L
352.	Iron	3/31/2021	001	1 mg/L	2.15 mg/L

353. Schnitzer's four-quarter average iron concentrations at the Canovanas Facility have exceeded the 2015 MSGP benchmark value of 1 milligram per liter three times since the fourth quarter of 2016.

354. Schnitzer’s discharges of iron from the Canovanas Facility have triggered the 2015 MSGP corrective action and/or AIM requirements three times since the fourth quarter of 2016.

Par. No.	Pollutant Criteria	Date Corrective Action Triggered	Outfall	Benchmark Value	Annual Average
355.	Iron	9/30/2019	001	1 mg/L	1.38 mg/L
356.	Iron	9/30/2020	001	1 mg/L	1.88 mg/L
357.	Iron	3/31/2021	001	1 mg/L	1.55 mg/L

Pollutant: Zinc

358. The Facilities’ discharges of zinc contribute to the degradation of the Río Hondo, the Río Bairoa, the Río Grande de Loiza, Lago Loiza, the Unnamed Creek, the Río Grande de Loiza Estuary, and the Caribbean Sea, and to the violation of water quality standards for Puerto Rico.

359. When ingested, zinc may cause health problems in humans, including brain damage, infertility and developmental issues, pancreatic damage, anemia, nausea, vomiting, and stomach cramps.

360. Zinc is toxic to humans and aquatic organisms in high amounts, and it reacts with chemicals like cadmium to intensify their toxicity. Zinc bioaccumulates in aquatic animals.

361. The Facilities’ quarterly discharge monitoring reports show that they have discharged zinc every quarter for which monitoring was conducted since the fourth quarter of 2016.

362. The Facilities have failed, and continue to fail, to use control measures to minimize discharges of zinc.

363. The Bayamón Facility has discharged concentrations of zinc higher than the 2015 MSGP benchmark value for zinc of 0.26 milligrams per liter and/or the 2021 MSGP benchmark value for zinc of 260 micrograms per liter four times between the fourth quarter of 2019 and the third quarter of 2021, as detailed in the below table.

Par. No.	Pollutant Criteria	Monitoring Period End Date	Outfall	Benchmark Value	Measured Value	Limit Exceedance Percent
364.	Zinc	12/31/2019	001	0.26 mg/L	1.78 mg/L	685%
365.	Zinc	12/31/2019	002	0.26 mg/L	1.4 mg/L	538%
366.	Zinc	3/31/2021	001	0.26 mg/L	0.603 mg/L	232%
367.	Zinc	9/30/2021	001	260 µg/L	977 µg/L	376%

368. The Caguas Facility has discharged concentrations of zinc higher than the 2015 MSGP benchmark value for zinc of 0.18 milligrams per liter and/or the 2021 MSGP benchmark value for zinc of 181 micrograms per liter seven times between the fourth quarter of 2018 and the fourth quarter of 2021, as detailed in the below table.

Par. No.	Pollutant Criteria	Monitoring Period End Date	Outfall	Benchmark Value	Measured Value	Limit Exceedance Percent
369.	Zinc	12/31/2018	001	0.18 mg/L	1.91 mg/L	1,061%
370.	Zinc	3/31/2019	001	0.18 mg/L	0.54 mg/L	300%
371.	Zinc	9/30/2019	001	0.18 mg/L	0.201 mg/L	112%
372.	Zinc	12/31/2020	001	0.18 mg/L	0.491 mg/L	273%
373.	Zinc	3/31/2021	001	0.18 mg/L	0.223 mg/L	124%
374.	Zinc	9/30/2021	001	181 µg/L	304 µg/L	168%
375.	Zinc	12/31/2021	001	181 µg/L	228 µg/L	126%

376. The Canovanas Facility has discharged concentrations of zinc higher than the 2015 MSGP benchmark value for zinc of 0.08 milligrams per liter and/or the 2021 MSGP benchmark value for zinc of 80 micrograms per liter six times between the fourth quarter of 2018 and the fourth quarter of 2021, as detailed in the below table.

Par. No.	Pollutant Criteria	Monitoring Period End Date	Outfall	Benchmark Value	Measured Value	Limit Exceedance Percent
377.	Zinc	12/31/2018	001	0.08 mg/L	0.59 mg/L	738%
378.	Zinc	3/31/2019	001	0.08 mg/L	0.326 mg/L	408%
379.	Zinc	9/30/2019	001	0.08 mg/L	0.337 mg/L	421%
380.	Zinc	9/30/2020	001	0.08 mg/L	0.286 mg/L	358%
381.	Zinc	9/30/2021	001	80 µg/L	139 µg/L	174%
382.	Zinc	12/31/2021	001	80 µg/L	105 µg/L	131%

383. The Ponce Facility discharged concentrations of zinc higher than the MSGPs' benchmark value for zinc of 90 micrograms per liter five times between the second quarter of 2018 and the fourth quarter of 2021, as detailed in the below table.

Par. No.	Pollutant Criteria	Monitoring Period End Date	Outfall	Benchmark Value	Measured Value	Limit Exceedance Percent
384.	Zinc	3/31/2018	001	90 µg/L	276 µg/L	307%
385.	Zinc	9/30/2018	001	90 µg/L	219 µg/L	243%
386.	Zinc	9/30/2019	001	90 µg/L	285 µg/L	317%
387.	Zinc	12/31/2020	001	90 µg/L	410 µg/L	456%
388.	Zinc	12/31/2021	001	90 µg/L	131 µg/L	146%

389. Schnitzer's four-quarter average zinc concentrations at the Bayamón Facility have exceeded the 2015 MSGP's benchmark value of 0.26 milligrams per liter five times since the fourth quarter of 2016.

390. Schnitzer's discharges of zinc from the Bayamón Facility have triggered the MSGPs' corrective action and/or AIM requirements five times since the fourth quarter of 2016, as detailed in the below table.

Par. No.	Pollutant Criteria	Date Corrective Action Triggered	Outfall	Benchmark Value	Annual Average
391.	Zinc	12/31/2019	001	0.26 mg/L	1.78 mg/L
392.	Zinc	12/31/2019	002	0.26 mg/L	1.4 mg/L
393.	Zinc	12/31/2020	001	0.26 mg/L	0.971 mg/L
394.	Zinc	3/31/2021	001	0.26 mg/L	0.848 mg/L
395.	Zinc	3/31/2021	002	0.26 mg/L	0.735 mg/L

396. Schnitzer's four-quarter average zinc concentrations at the Caguas Facility have exceeded the MSGPs' benchmark value of 0.18 micrograms per liter five times since the fourth quarter of 2016.

397. Schnitzer's discharges of zinc from the Caguas Facility have triggered the MSGPs' corrective action and/or AIM requirements five times since the fourth quarter of 2016, as

detailed in the below table.

Par. No.	Pollutant Criteria	Date Corrective Action Triggered	Outfall	Benchmark Value	Annual Average
398.	Zinc	12/31/2018	001	0.18 mg/L	1.91 mg/L
399.	Zinc	3/31/2019	001	0.18 mg/L	1.23 mg/L
400.	Zinc	9/30/2019	001	0.18 mg/L	0.884 mg/L
401.	Zinc	12/31/2020	001	0.18 mg/L	0.786 mg/L
402.	Zinc	3/31/2021	001	0.18 mg/L	0.364 mg/L

403. Schnitzer's four-quarter average zinc concentrations at the Canovanas Facility have exceeded the MSGPs' benchmark value of 0.08 micrograms per liter five times since the fourth quarter of 2016.

404. Schnitzer's discharges of zinc from the Canovanas Facility have triggered the MSGPs' corrective action and/or AIM requirements five times since the fourth quarter of 2016, as detailed in the below table.

Par. No.	Pollutant Criteria	Date Corrective Action Triggered	Outfall	Benchmark Value	Annual Average
405.	Zinc	12/31/2018	001	0.08 mg/L	0.59 mg/L
406.	Zinc	3/31/2019	001	0.08 mg/L	0.458 mg/L
407.	Zinc	9/30/2019	001	0.08 mg/L	0.418 mg/L
408.	Zinc	9/30/2020	001	0.08 mg/L	0.385 mg/L
409.	Zinc	3/31/2021	001	0.08 mg/L	0.252 mg/L

410. Schnitzer's four-quarter average zinc concentrations at the Ponce Facility have exceeded the MSGPs' benchmark value of 90 micrograms per liter eight times since the fourth quarter of 2016.

411. Schnitzer's discharges of zinc from the Ponce Facility have triggered the MSGPs' corrective action and/or AIM requirements eight times since the fourth quarter of 2016, as detailed in the below table.

Par. No.	Pollutant Criteria	Date Corrective Action Triggered	Outfall	Benchmark Value	Annual Average

412.	Zinc	9/30/2018	001	90 µg/L	248 µg/L
413.	Zinc	3/31/2019	001	90 µg/L	194 µg/L
414.	Zinc	6/30/2019	001	90 µg/L	152 µg/L
415.	Zinc	9/30/2019	001	90 µg/L	154 µg/L
416.	Zinc	12/31/2019	001	90 µg/L	110 µg/L
417.	Zinc	3/31/2020	001	90 µg/L	101 µg/L
418.	Zinc	6/30/2020	001	90 µg/L	107 µg/L
419.	Zinc	12/31/2020	001	90 µg/L	140 µg/L

Pollutant: Chemical Oxygen Demand ("COD")

420. The Facilities' discharges of COD contribute to the degradation of the Río Hondo, the Río Bairoa, the Río Grande de Loiza, Lago Loiza, the Unnamed Creek, the Río Grande de Loiza Estuary, and the Caribbean Sea, and to the violation of water quality standards for Puerto Rico.

421. COD is an indicator for the presence of organic pollution. Organic pollution contributes to low dissolved oxygen levels and eutrophication, which can result in harmful algal and cyanobacteria blooms, a proliferation of nuisance and invasive species, discolored water, harmful benthic deposits, and scum.

422. The Facilities' quarterly discharge monitoring reports show that they have discharged COD every quarter for which monitoring was conducted since the fourth quarter of 2016.

423. The Facilities have failed, and continue to fail, to use control measures to minimize discharges of COD.

424. The Bayamón Facility has discharged concentrations of COD higher than the MSGPs' benchmark value for COD of 120 milligrams per liter six times between the fourth quarter of 2019 and the fourth quarter of 2021, as detailed in the below table.

Par. No.	**Pollutant Criteria**	**Monitoring Period End Date**	**Outfall**	**Benchmark Value**	**Measured Value**	**Limit Exceedance Percent**
425.	COD	12/31/2019	003	120 mg/L	266 mg/L	222%
426.	COD	12/31/2020	003	120 mg/L	278 mg/L	232%
427.	COD	3/31/2021	001	120 mg/L	353 mg/L	294%

428.	COD	3/31/2021	003	120 mg/L	223 mg/L	186%
429.	COD	9/30/2021	001	120 mg/L	183 mg/L	153%
430.	COD	12/31/2021	003	120 mg/L	272 mg/L	227%

431. The Caguas Facility has discharged concentrations of COD higher than the MSGPs' benchmark value for COD of 120 milligrams per liter six times between the fourth quarter of 2018 and the fourth quarter of 2021, as detailed in the below table.

Par. No.	Pollutant Criteria	Monitoring Period End Date	Outfall	Benchmark Value	Measured Value	Limit Exceedance Percent
432.	COD	12/31/2018	001	120 mg/L	429 mg/L	358%
433.	COD	3/31/2019	001	120 mg/L	307 mg/L	256%
434.	COD	12/31/2020	001	120 mg/L	173 mg/L	144%
435.	COD	3/31/2021	001	120 mg/L	194.7 mg/L	162%
436.	COD	9/30/2021	001	120 mg/L	127 mg/L	106%
437.	COD	12/31/2021	001	120 mg/L	210 mg/L	175%

438. The Canovanas Facility discharged concentrations of COD higher than the 2015 MSGP benchmark value for COD of 120 milligrams per liter in the first quarter of 2019, as detailed in the below table.

Par. No.	Pollutant Criteria	Monitoring Period End Date	Outfall	Benchmark Value	Measured Value	Limit Exceedance Percent
439.	COD	3/31/2019	001	120 mg/L	122 mg/L	102%

440. The Ponce Facility discharged concentrations of COD higher than the MSGPs' benchmark value for COD of 120 milligrams per liter twice between the third quarter of 2020 and the third quarter of 2021, as detailed in the below table.

Par. No.	Pollutant Criteria	Monitoring Period End Date	Outfall	Benchmark Value	Measured Value	Limit Exceedance Percent
441.	COD	9/30/2020	001	120 mg/L	266 mg/L	222%
442.	COD	9/30/2021	001	120 mg/L	152 mg/L	127%

443. Schnitzer's four-quarter average COD concentrations at the Bayamón Facility have

exceeded the MSGPs' benchmark value of 120 milligrams per liter three times since the fourth quarter of 2016.

444. Schnitzer's discharges of COD from the Bayamón Facility have triggered the MSGPs' corrective action and/or AIM requirements three times since the fourth quarter of 2016, as detailed in the below table.

Par. No.	Pollutant Criteria	Date Corrective Action Triggered	Outfall	Benchmark Value	Annual Average
445.	COD	12/31/2020	003	120 mg/L	272 mg/L
446.	COD	3/31/2021	001	120 mg/L	177 mg/L
447.	COD	3/31/2021	003	120 mg/L	256 mg/L

448. Schnitzer's four-quarter average COD concentrations at the Caguas Facility have exceeded the MSGPs' benchmark value of 120 milligrams per liter four times since the fourth quarter of 2016.

449. Schnitzer's discharges of COD from the Caguas Facility have triggered the MSGPs' corrective action and/or AIM requirements four times since the fourth quarter of 2016, as detailed in the below table.

Par. No.	Pollutant Criteria	Date Corrective Action Triggered	Outfall	Benchmark Value	Annual Average
450.	COD	3/31/2019	001	120 mg/L	368 mg/L
451.	COD	9/30/2019	001	120 mg/L	282 mg/L
452.	COD	12/31/2020	001	120 mg/L	255 mg/L
453.	COD	3/31/2021	001	120 mg/L	196 mg/L

Pollutant: Total Suspended Solids ("TSS")

454. The Facilities' discharges of TSS contribute to the degradation of the Río Hondo, the Río Bairoa, the Río Grande de Loiza, Lago Loiza, the Unnamed Creek, the Río Grande de Loiza Estuary, and the Caribbean Sea, and to the violation of water quality standards for Puerto Rico.

455. Elevated levels of TSS increase water turbidity and reduce the light available to desirable

aquatic plants. TSS that settle out as bottom deposits can alter or destroy habitat for fish and other bottom-dwelling organisms.

456. The Facilities' quarterly discharge monitoring reports show that they have discharged TSS every quarter for which monitoring was conducted since the fourth quarter of 2016.

457. The Facilities have failed, and continue to fail, to use control measures to minimize discharges of TSS.

458. The Bayamón Facility has discharged concentrations of TSS higher than the 2015 MSGP benchmark value for TSS of 100 milligrams per liter in the first quarter of 2021, as detailed in the below table.

Par. No.	**Pollutant Criteria**	**Monitoring Period End Date**	**Outfall**	**Benchmark Value**	**Measured Value**	**Limit Exceedance Percent**
459.	TSS	3/31/2021	001	100 mg/L	152 mg/L	152%

460. The Caguas Facility has discharged concentrations of TSS higher than the 2015 MSGP benchmark value for TSS of 100 milligrams per liter twice between the fourth quarter of 2018 and the fourth quarter of 2020, as detailed in the below table.

Par. No.	**Pollutant Criteria**	**Monitoring Period End Date**	**Outfall**	**Benchmark Value**	**Measured Value**	**Limit Exceedance Percent**
461.	TSS	12/31/2018	001	100 mg/L	336 mg/L	336%
462.	TSS	12/31/2020	001	100 mg/L	120 mg/L	120%

463. Schnitzer's four-quarter average TSS concentrations at the Caguas Facility have exceeded the MSGPs' benchmark value of 100 milligrams per liter three times since the fourth quarter of 2016.

464. Schnitzer's discharges of TSS from the Caguas Facility have triggered the MSGPs' corrective action and/or AIM requirements three times since the fourth quarter of 2016, as detailed in the below table.

Par. No.	Pollutant Criteria	Date Corrective Action Triggered	Outfall	Benchmark Value	Annual Average
465.	TSS	3/31/2019	001	100 mg/L	215 mg/L
466.	TSS	9/30/2019	001	100 mg/L	153 mg/L
467.	TSS	12/31/2020	001	100 mg/L	145 mg/L

Pollutant: Effluent that Contains Evidence of Stormwater Pollution

468. Upon information and belief, Schnitzer has observed evidence of stormwater pollution in the effluent of the Bayamón Facility.

469. Upon information and belief, Schnitzer has observed evidence of stormwater pollution in the effluent of the Caguas Facility.

470. Upon information and belief, Schnitzer has observed evidence of stormwater pollution in the effluent of the Canovanas Facility.

471. Upon information and belief, Schnitzer has observed evidence of stormwater pollution in the effluent of the Ponce Facility.

472. Upon information and belief, Schnitzer's observations of stormwater pollution in the effluent of the Facilities have triggered the MSGPs' corrective action and/or AIM requirements.

473. Upon information and belief, the Facilities' discharges of effluent that contains evidence of stormwater pollution contribute to the degradation of the Río Hondo, the Río Bairoa, the Río Grande de Loiza, Lago Loiza, the Unnamed Creek, the Río Grande de Loiza Estuary, and the Caribbean Sea, and to the violation of water quality standards for Puerto Rico.

474. Upon information and belief, the Facilities have failed, and continue to fail, to use control measures to minimize discharges of visible and malodorous pollutants.

Facility Inspections

475. Upon information and belief, facility inspections at the Bayamón Facility revealed instances where discharges were not adequately controlled.

476. Upon information and belief, facility inspections at the Caguas Facility revealed instances where discharges were not adequately controlled.

477. Upon information and belief, facility inspections at the Canovanas Facility revealed instances where discharges were not adequately controlled.

478. Upon information and belief, facility inspections at the Ponce Facility revealed instances where discharges were not adequately controlled.

479. Schnitzer's facility inspections which have revealed instances where discharges were not adequately controlled have triggered the MSGPs' corrective action and/or AIM requirements.

Monitoring and Reporting

480. Schnitzer has failed to conduct required quarterly benchmark and annual impaired waters monitoring at the Bayamón Facility for the following pollutant criteria, on the following dates, and from the following outfalls:

Par. No.	Pollutant Criteria	Monitoring Period End Date	Outfall	Type of Monitoring and Reporting Requirement
481.	Aluminum	6/30/2017	001	Benchmark
482.	Aluminum	6/30/2017	002	Benchmark
483.	Aluminum	6/30/2017	003	Benchmark
484.	COD	6/30/2017	001	Benchmark
485.	COD	6/30/2017	002	Benchmark
486.	COD	6/30/2017	003	Benchmark
487.	Copper	6/30/2017	001	Benchmark
488.	Copper	6/30/2017	002	Benchmark
489.	Copper	6/30/2017	003	Benchmark
490.	Iron	6/30/2017	001	Benchmark
491.	Iron	6/30/2017	002	Benchmark
492.	Iron	6/30/2017	003	Benchmark
493.	Lead	6/30/2017	001	Benchmark
494.	Lead	6/30/2017	002	Benchmark
495.	Lead	6/30/2017	003	Benchmark
496.	TSS	6/30/2017	001	Benchmark
497.	TSS	6/30/2017	002	Benchmark
498.	TSS	6/30/2017	003	Benchmark
499.	Zinc	6/30/2017	001	Benchmark

500.	Zinc	6/30/2017	002	Benchmark
501.	Zinc	6/30/2017	003	Benchmark
502.	Aluminum	9/30/2017	001	Benchmark
503.	Aluminum	9/30/2017	002	Benchmark
504.	Aluminum	9/30/2017	003	Benchmark
505.	COD	9/30/2017	001	Benchmark
506.	COD	9/30/2017	002	Benchmark
507.	COD	9/30/2017	003	Benchmark
508.	Copper	9/30/2017	001	Benchmark
509.	Copper	9/30/2017	002	Benchmark
510.	Copper	9/30/2017	003	Benchmark
511.	Iron	9/30/2017	001	Benchmark
512.	Iron	9/30/2017	002	Benchmark
513.	Iron	9/30/2017	003	Benchmark
514.	Lead	9/30/2017	001	Benchmark
515.	Lead	9/30/2017	002	Benchmark
516.	Lead	9/30/2017	003	Benchmark
517.	TSS	9/30/2017	001	Benchmark
518.	TSS	9/30/2017	002	Benchmark
519.	TSS	9/30/2017	003	Benchmark
520.	Zinc	9/30/2017	001	Benchmark
521.	Zinc	9/30/2017	002	Benchmark
522.	Zinc	9/30/2017	003	Benchmark
523.	Inorganic arsenic	9/30/2017	001	Impaired waters
524.	Inorganic arsenic	9/30/2017	002	Impaired waters
525.	Inorganic arsenic	9/30/2017	003	Impaired waters
526.	Arsenic	9/30/2017	001	Impaired waters
527.	Arsenic	9/30/2017	002	Impaired waters
528.	Arsenic	9/30/2017	003	Impaired waters
529.	Coliform	9/30/2017	001	Impaired waters
530.	Coliform	9/30/2017	002	Impaired waters
531.	Coliform	9/30/2017	003	Impaired waters
532.	Foaming agents	9/30/2017	001	Impaired waters
533.	Foaming agents	9/30/2017	002	Impaired waters
534.	Foaming agents	9/30/2017	003	Impaired waters
535.	Dissolved oxygen	9/30/2017	001	Impaired waters
536.	Dissolved oxygen	9/30/2017	002	Impaired waters
537.	Dissolved oxygen	9/30/2017	003	Impaired waters
538.	Selenium	9/30/2017	001	Impaired waters
539.	Selenium	9/30/2017	002	Impaired waters
540.	Selenium	9/30/2017	003	Impaired waters
541.	Turbidity	9/30/2017	001	Impaired waters
542.	Turbidity	9/30/2017	002	Impaired waters
543.	Turbidity	9/30/2017	003	Impaired waters
544.	Aluminum	12/31/2017	001	Benchmark

545.	Aluminum	12/31/2017	002	Benchmark
546.	Aluminum	12/31/2017	003	Benchmark
547.	COD	12/31/2017	001	Benchmark
548.	COD	12/31/2017	002	Benchmark
549.	COD	12/31/2017	003	Benchmark
550.	Copper	12/31/2017	001	Benchmark
551.	Copper	12/31/2017	002	Benchmark
552.	Copper	12/31/2017	003	Benchmark
553.	Iron	12/31/2017	001	Benchmark
554.	Iron	12/31/2017	002	Benchmark
555.	Iron	12/31/2017	003	Benchmark
556.	Lead	12/31/2017	001	Benchmark
557.	Lead	12/31/2017	002	Benchmark
558.	Lead	12/31/2017	003	Benchmark
559.	TSS	12/31/2017	001	Benchmark
560.	TSS	12/31/2017	002	Benchmark
561.	TSS	12/31/2017	003	Benchmark
562.	Zinc	12/31/2017	001	Benchmark
563.	Zinc	12/31/2017	002	Benchmark
564.	Zinc	12/31/2017	003	Benchmark
565.	Aluminum	3/31/2018	001	Benchmark
566.	Aluminum	3/31/2018	002	Benchmark
567.	Aluminum	3/31/2018	003	Benchmark
568.	COD	3/31/2018	001	Benchmark
569.	COD	3/31/2018	002	Benchmark
570.	COD	3/31/2018	003	Benchmark
571.	Copper	3/31/2018	001	Benchmark
572.	Copper	3/31/2018	002	Benchmark
573.	Copper	3/31/2018	003	Benchmark
574.	Iron	3/31/2018	001	Benchmark
575.	Iron	3/31/2018	002	Benchmark
576.	Iron	3/31/2018	003	Benchmark
577.	Lead	3/31/2018	001	Benchmark
578.	Lead	3/31/2018	002	Benchmark
579.	Lead	3/31/2018	003	Benchmark
580.	TSS	3/31/2018	001	Benchmark
581.	TSS	3/31/2018	002	Benchmark
582.	TSS	3/31/2018	003	Benchmark
583.	Zinc	3/31/2018	001	Benchmark
584.	Zinc	3/31/2018	002	Benchmark
585.	Zinc	3/31/2018	003	Benchmark
586.	Aluminum	6/30/2018	001	Benchmark
587.	Aluminum	6/30/2018	002	Benchmark
588.	Aluminum	6/30/2018	003	Benchmark
589.	COD	6/30/2018	001	Benchmark

590.	COD	6/30/2018	002	Benchmark
591.	COD	6/30/2018	003	Benchmark
592.	Copper	6/30/2018	001	Benchmark
593.	Copper	6/30/2018	002	Benchmark
594.	Copper	6/30/2018	003	Benchmark
595.	Iron	6/30/2018	001	Benchmark
596.	Iron	6/30/2018	002	Benchmark
597.	Iron	6/30/2018	003	Benchmark
598.	Lead	6/30/2018	001	Benchmark
599.	Lead	6/30/2018	002	Benchmark
600.	Lead	6/30/2018	003	Benchmark
601.	TSS	6/30/2018	001	Benchmark
602.	TSS	6/30/2018	002	Benchmark
603.	TSS	6/30/2018	003	Benchmark
604.	Zinc	6/30/2018	001	Benchmark
605.	Zinc	6/30/2018	002	Benchmark
606.	Zinc	6/30/2018	003	Benchmark
607.	Aluminum	9/30/2018	001	Benchmark
608.	Aluminum	9/30/2018	002	Benchmark
609.	Aluminum	9/30/2018	003	Benchmark
610.	COD	9/30/2018	001	Benchmark
611.	COD	9/30/2018	002	Benchmark
612.	COD	9/30/2018	003	Benchmark
613.	Copper	9/30/2018	001	Benchmark
614.	Copper	9/30/2018	002	Benchmark
615.	Copper	9/30/2018	003	Benchmark
616.	Iron	9/30/2018	001	Benchmark
617.	Iron	9/30/2018	002	Benchmark
618.	Iron	9/30/2018	003	Benchmark
619.	Lead	9/30/2018	001	Benchmark
620.	Lead	9/30/2018	002	Benchmark
621.	Lead	9/30/2018	003	Benchmark
622.	TSS	9/30/2018	001	Benchmark
623.	TSS	9/30/2018	002	Benchmark
624.	TSS	9/30/2018	003	Benchmark
625.	Zinc	9/30/2018	001	Benchmark
626.	Zinc	9/30/2018	002	Benchmark
627.	Zinc	9/30/2018	003	Benchmark
628.	Inorganic arsenic	9/30/2018	001	Impaired waters
629.	Inorganic arsenic	9/30/2018	002	Impaired waters
630.	Inorganic arsenic	9/30/2018	003	Impaired waters
631.	Arsenic	9/30/2018	001	Impaired waters
632.	Arsenic	9/30/2018	002	Impaired waters
633.	Arsenic	9/30/2018	003	Impaired waters
634.	Coliform	9/30/2018	001	Impaired waters

635.	Coliform	9/30/2018	002	Impaired waters
636.	Coliform	9/30/2018	003	Impaired waters
637.	Foaming agents	9/30/2018	001	Impaired waters
638.	Foaming agents	9/30/2018	002	Impaired waters
639.	Foaming agents	9/30/2018	003	Impaired waters
640.	Dissolved oxygen	9/30/2018	001	Impaired waters
641.	Dissolved oxygen	9/30/2018	002	Impaired waters
642.	Dissolved oxygen	9/30/2018	003	Impaired waters
643.	Selenium	9/30/2018	001	Impaired waters
644.	Selenium	9/30/2018	002	Impaired waters
645.	Selenium	9/30/2018	003	Impaired waters
646.	Turbidity	9/30/2018	001	Impaired waters
647.	Turbidity	9/30/2018	002	Impaired waters
648.	Turbidity	9/30/2018	003	Impaired waters
649.	Aluminum	12/31/2018	001	Benchmark
650.	Aluminum	12/31/2018	002	Benchmark
651.	Aluminum	12/31/2018	003	Benchmark
652.	COD	12/31/2018	001	Benchmark
653.	COD	12/31/2018	002	Benchmark
654.	COD	12/31/2018	003	Benchmark
655.	Copper	12/31/2018	001	Benchmark
656.	Copper	12/31/2018	002	Benchmark
657.	Copper	12/31/2018	003	Benchmark
658.	Iron	12/31/2018	001	Benchmark
659.	Iron	12/31/2018	002	Benchmark
660.	Iron	12/31/2018	003	Benchmark
661.	Lead	12/31/2018	001	Benchmark
662.	Lead	12/31/2018	002	Benchmark
663.	Lead	12/31/2018	003	Benchmark
664.	TSS	12/31/2018	001	Benchmark
665.	TSS	12/31/2018	002	Benchmark
666.	TSS	12/31/2018	003	Benchmark
667.	Zinc	12/31/2018	001	Benchmark
668.	Zinc	12/31/2018	002	Benchmark
669.	Zinc	12/31/2018	003	Benchmark
670.	Aluminum	3/31/2019	001	Benchmark
671.	Aluminum	3/31/2019	002	Benchmark
672.	Aluminum	3/31/2019	003	Benchmark
673.	COD	3/31/2019	001	Benchmark
674.	COD	3/31/2019	002	Benchmark
675.	COD	3/31/2019	003	Benchmark
676.	Copper	3/31/2019	001	Benchmark
677.	Copper	3/31/2019	002	Benchmark
678.	Copper	3/31/2019	003	Benchmark
679.	Iron	3/31/2019	001	Benchmark

680.	Iron	3/31/2019	002	Benchmark
681.	Iron	3/31/2019	003	Benchmark
682.	Lead	3/31/2019	001	Benchmark
683.	Lead	3/31/2019	002	Benchmark
684.	Lead	3/31/2019	003	Benchmark
685.	TSS	3/31/2019	001	Benchmark
686.	TSS	3/31/2019	002	Benchmark
687.	TSS	3/31/2019	003	Benchmark
688.	Zinc	3/31/2019	001	Benchmark
689.	Zinc	3/31/2019	002	Benchmark
690.	Zinc	3/31/2019	003	Benchmark
691.	Aluminum	6/30/2019	001	Benchmark
692.	Aluminum	6/30/2019	002	Benchmark
693.	Aluminum	6/30/2019	003	Benchmark
694.	COD	6/30/2019	001	Benchmark
695.	COD	6/30/2019	002	Benchmark
696.	COD	6/30/2019	003	Benchmark
697.	Copper	6/30/2019	001	Benchmark
698.	Copper	6/30/2019	002	Benchmark
699.	Copper	6/30/2019	003	Benchmark
700.	Iron	6/30/2019	001	Benchmark
701.	Iron	6/30/2019	002	Benchmark
702.	Iron	6/30/2019	003	Benchmark
703.	Lead	6/30/2019	001	Benchmark
704.	Lead	6/30/2019	002	Benchmark
705.	Lead	6/30/2019	003	Benchmark
706.	TSS	6/30/2019	001	Benchmark
707.	TSS	6/30/2019	002	Benchmark
708.	TSS	6/30/2019	003	Benchmark
709.	Zinc	6/30/2019	001	Benchmark
710.	Zinc	6/30/2019	002	Benchmark
711.	Zinc	6/30/2019	003	Benchmark
712.	Aluminum	9/30/2019	001	Benchmark
713.	Aluminum	9/30/2019	002	Benchmark
714.	Aluminum	9/30/2019	003	Benchmark
715.	COD	9/30/2019	001	Benchmark
716.	COD	9/30/2019	002	Benchmark
717.	COD	9/30/2019	003	Benchmark
718.	Copper	9/30/2019	001	Benchmark
719.	Copper	9/30/2019	002	Benchmark
720.	Copper	9/30/2019	003	Benchmark
721.	Iron	9/30/2019	001	Benchmark
722.	Iron	9/30/2019	002	Benchmark
723.	Iron	9/30/2019	003	Benchmark
724.	Lead	9/30/2019	001	Benchmark

725.	Lead	9/30/2019	002	Benchmark
726.	Lead	9/30/2019	003	Benchmark
727.	TSS	9/30/2019	001	Benchmark
728.	TSS	9/30/2019	002	Benchmark
729.	TSS	9/30/2019	003	Benchmark
730.	Zinc	9/30/2019	001	Benchmark
731.	Zinc	9/30/2019	002	Benchmark
732.	Zinc	9/30/2019	003	Benchmark
733.	Inorganic arsenic	9/30/2019	001	Impaired waters
734.	Inorganic arsenic	9/30/2019	002	Impaired waters
735.	Inorganic arsenic	9/30/2019	003	Impaired waters
736.	Arsenic	9/30/2019	001	Impaired waters
737.	Arsenic	9/30/2019	002	Impaired waters
738.	Arsenic	9/30/2019	003	Impaired waters
739.	Coliform	9/30/2019	001	Impaired waters
740.	Coliform	9/30/2019	002	Impaired waters
741.	Coliform	9/30/2019	003	Impaired waters
742.	Foaming agents	9/30/2019	001	Impaired waters
743.	Foaming agents	9/30/2019	002	Impaired waters
744.	Foaming agents	9/30/2019	003	Impaired waters
745.	Dissolved oxygen	9/30/2019	001	Impaired waters
746.	Dissolved oxygen	9/30/2019	002	Impaired waters
747.	Dissolved oxygen	9/30/2019	003	Impaired waters
748.	Selenium	9/30/2019	001	Impaired waters
749.	Selenium	9/30/2019	002	Impaired waters
750.	Selenium	9/30/2019	003	Impaired waters
751.	Turbidity	9/30/2019	001	Impaired waters
752.	Turbidity	9/30/2019	002	Impaired waters
753.	Turbidity	9/30/2019	003	Impaired waters
754.	Aluminum	3/31/2020	001	Benchmark
755.	Aluminum	3/31/2020	002	Benchmark
756.	Aluminum	3/31/2020	003	Benchmark
757.	COD	3/31/2020	001	Benchmark
758.	COD	3/31/2020	002	Benchmark
759.	COD	3/31/2020	003	Benchmark
760.	Copper	3/31/2020	001	Benchmark
761.	Copper	3/31/2020	002	Benchmark
762.	Copper	3/31/2020	003	Benchmark
763.	Iron	3/31/2020	001	Benchmark
764.	Iron	3/31/2020	002	Benchmark
765.	Iron	3/31/2020	003	Benchmark
766.	Lead	3/31/2020	001	Benchmark
767.	Lead	3/31/2020	002	Benchmark
768.	Lead	3/31/2020	003	Benchmark
769.	TSS	3/31/2020	001	Benchmark

770.	TSS	3/31/2020	002	Benchmark
771.	TSS	3/31/2020	003	Benchmark
772.	Zinc	3/31/2020	001	Benchmark
773.	Zinc	3/31/2020	002	Benchmark
774.	Zinc	3/31/2020	003	Benchmark
775.	Aluminum	6/30/2020	001	Benchmark
776.	Aluminum	6/30/2020	002	Benchmark
777.	Aluminum	6/30/2020	003	Benchmark
778.	COD	6/30/2020	001	Benchmark
779.	COD	6/30/2020	002	Benchmark
780.	COD	6/30/2020	003	Benchmark
781.	Copper	6/30/2020	001	Benchmark
782.	Copper	6/30/2020	002	Benchmark
783.	Copper	6/30/2020	003	Benchmark
784.	Iron	6/30/2020	001	Benchmark
785.	Iron	6/30/2020	002	Benchmark
786.	Iron	6/30/2020	003	Benchmark
787.	Lead	6/30/2020	001	Benchmark
788.	Lead	6/30/2020	002	Benchmark
789.	Lead	6/30/2020	003	Benchmark
790.	TSS	6/30/2020	001	Benchmark
791.	TSS	6/30/2020	002	Benchmark
792.	TSS	6/30/2020	003	Benchmark
793.	Zinc	6/30/2020	001	Benchmark
794.	Zinc	6/30/2020	002	Benchmark
795.	Zinc	6/30/2020	003	Benchmark
796.	Aluminum	9/30/2020	001	Benchmark
797.	Aluminum	9/30/2020	002	Benchmark
798.	Aluminum	9/30/2020	003	Benchmark
799.	COD	9/30/2020	001	Benchmark
800.	COD	9/30/2020	002	Benchmark
801.	COD	9/30/2020	003	Benchmark
802.	Copper	9/30/2020	001	Benchmark
803.	Copper	9/30/2020	002	Benchmark
804.	Copper	9/30/2020	003	Benchmark
805.	Iron	9/30/2020	001	Benchmark
806.	Iron	9/30/2020	002	Benchmark
807.	Iron	9/30/2020	003	Benchmark
808.	Lead	9/30/2020	001	Benchmark
809.	Lead	9/30/2020	002	Benchmark
810.	Lead	9/30/2020	003	Benchmark
811.	TSS	9/30/2020	001	Benchmark
812.	TSS	9/30/2020	002	Benchmark
813.	TSS	9/30/2020	003	Benchmark
814.	Zinc	9/30/2020	001	Benchmark

815.	Zinc	9/30/2020	002	Benchmark
816.	Zinc	9/30/2020	003	Benchmark
817.	Inorganic arsenic	9/30/2020	001	Impaired waters
818.	Inorganic arsenic	9/30/2020	002	Impaired waters
819.	Inorganic arsenic	9/30/2020	003	Impaired waters
820.	Arsenic	9/30/2020	001	Impaired waters
821.	Arsenic	9/30/2020	002	Impaired waters
822.	Arsenic	9/30/2020	003	Impaired waters
823.	Coliform	9/30/2020	001	Impaired waters
824.	Coliform	9/30/2020	002	Impaired waters
825.	Coliform	9/30/2020	003	Impaired waters
826.	Foaming agents	9/30/2020	001	Impaired waters
827.	Foaming agents	9/30/2020	002	Impaired waters
828.	Foaming agents	9/30/2020	003	Impaired waters
829.	Dissolved oxygen	9/30/2020	001	Impaired waters
830.	Dissolved oxygen	9/30/2020	002	Impaired waters
831.	Dissolved oxygen	9/30/2020	003	Impaired waters
832.	Selenium	9/30/2020	001	Impaired waters
833.	Selenium	9/30/2020	002	Impaired waters
834.	Selenium	9/30/2020	003	Impaired waters
835.	Turbidity	9/30/2020	001	Impaired waters
836.	Turbidity	9/30/2020	002	Impaired waters
837.	Turbidity	9/30/2020	003	Impaired waters
838.	Aluminum	12/31/2020	002	Benchmark
839.	COD	12/31/2020	002	Benchmark
840.	Copper	12/31/2020	002	Benchmark
841.	Iron	12/31/2020	002	Benchmark
842.	Lead	12/31/2020	002	Benchmark
843.	TSS	12/31/2020	002	Benchmark
844.	Zinc	12/31/2020	002	Benchmark
845.	Inorganic arsenic	12/31/2021	001	Impaired waters
846.	Inorganic arsenic	12/31/2021	002	Impaired waters
847.	Inorganic arsenic	12/31/2021	003	Impaired waters
848.	Arsenic	12/31/2021	001	Impaired waters
849.	Arsenic	12/31/2021	002	Impaired waters
850.	Arsenic	12/31/2021	003	Impaired waters
851.	Coliform	12/31/2021	001	Impaired waters
852.	Coliform	12/31/2021	002	Impaired waters
853.	Coliform	12/31/2021	003	Impaired waters
854.	Foaming agents	12/31/2021	001	Impaired waters
855.	Foaming agents	12/31/2021	002	Impaired waters
856.	Foaming agents	12/31/2021	003	Impaired waters
857.	Dissolved oxygen	12/31/2021	001	Impaired waters
858.	Dissolved oxygen	12/31/2021	002	Impaired waters
859.	Dissolved oxygen	12/31/2021	003	Impaired waters

860.	Selenium	12/31/2021	001	Impaired waters
861.	Selenium	12/31/2021	002	Impaired waters
862.	Selenium	12/31/2021	003	Impaired waters
863.	Turbidity	12/31/2021	001	Impaired waters
864.	Turbidity	12/31/2021	002	Impaired waters
865.	Turbidity	12/31/2021	003	Impaired waters

866. Upon information and belief, Schnitzer has failed to conduct annual impaired waters monitoring at the Bayamón Facility for surfactants and fecal coliform.

867. Upon information and belief, Schnitzer has failed to conduct quarterly benchmark and annual impaired waters monitoring at the Bayamón Facility for all pollutant criteria prior to the second quarter of 2017.

868. Schnitzer has failed to conduct required quarterly benchmark monitoring at the Caguas Facility for the following pollutant criteria, on the following dates, and from the following outfalls:

Par. No.	**Pollutant Criteria**	**Monitoring Period End Date**	**Outfall**	**Monitoring and Reporting Requirement**
869.	Aluminum	6/30/2017	001	Benchmark
870.	COD	6/30/2017	001	Benchmark
871.	Copper	6/30/2017	001	Benchmark
872.	Iron	6/30/2017	001	Benchmark
873.	Lead	6/30/2017	001	Benchmark
874.	TSS	6/30/2017	001	Benchmark
875.	Zinc	6/30/2017	001	Benchmark
876.	Aluminum	9/30/2017	001	Benchmark
877.	COD	9/30/2017	001	Benchmark
878.	Copper	9/30/2017	001	Benchmark
879.	Iron	9/30/2017	001	Benchmark
880.	Lead	9/30/2017	001	Benchmark
881.	TSS	9/30/2017	001	Benchmark
882.	Zinc	9/30/2017	001	Benchmark
883.	Aluminum	12/31/2017	001	Benchmark
884.	COD	12/31/2017	001	Benchmark
885.	Copper	12/31/2017	001	Benchmark
886.	Iron	12/31/2017	001	Benchmark
887.	Lead	12/31/2017	001	Benchmark

888.	TSS	12/31/2017	001	Benchmark
889.	Zinc	12/31/2017	001	Benchmark
890.	Aluminum	3/31/2018	001	Benchmark
891.	COD	3/31/2018	001	Benchmark
892.	Copper	3/31/2018	001	Benchmark
893.	Iron	3/31/2018	001	Benchmark
894.	Lead	3/31/2018	001	Benchmark
895.	TSS	3/31/2018	001	Benchmark
896.	Zinc	3/31/2018	001	Benchmark
897.	Aluminum	6/30/2018	001	Benchmark
898.	COD	6/30/2018	001	Benchmark
899.	Copper	6/30/2018	001	Benchmark
900.	Iron	6/30/2018	001	Benchmark
901.	Lead	6/30/2018	001	Benchmark
902.	TSS	6/30/2018	001	Benchmark
903.	Zinc	6/30/2018	001	Benchmark
904.	Aluminum	9/30/2018	001	Benchmark
905.	COD	9/30/2018	001	Benchmark
906.	Copper	9/30/2018	001	Benchmark
907.	Iron	9/30/2018	001	Benchmark
908.	Lead	9/30/2018	001	Benchmark
909.	TSS	9/30/2018	001	Benchmark
910.	Zinc	9/30/2018	001	Benchmark
911.	Aluminum	6/30/2019	001	Benchmark
912.	COD	6/30/2019	001	Benchmark
913.	Copper	6/30/2019	001	Benchmark
914.	Iron	6/30/2019	001	Benchmark
915.	Lead	6/30/2019	001	Benchmark
916.	TSS	6/30/2019	001	Benchmark
917.	Zinc	6/30/2019	001	Benchmark
918.	Aluminum	12/31/2019	001	Benchmark
919.	COD	12/31/2019	001	Benchmark
920.	Copper	12/31/2019	001	Benchmark
921.	Iron	12/31/2019	001	Benchmark
922.	Lead	12/31/2019	001	Benchmark
923.	TSS	12/31/2019	001	Benchmark
924.	Zinc	12/31/2019	001	Benchmark
925.	Aluminum	3/31/2020	001	Benchmark
926.	COD	3/31/2020	001	Benchmark
927.	Copper	3/31/2020	001	Benchmark
928.	Iron	3/31/2020	001	Benchmark
929.	Lead	3/31/2020	001	Benchmark
930.	TSS	3/31/2020	001	Benchmark
931.	Zinc	3/31/2020	001	Benchmark
932.	Aluminum	6/30/2020	001	Benchmark

933.	COD	6/30/2020	001	Benchmark
934.	Copper	6/30/2020	001	Benchmark
935.	Iron	6/30/2020	001	Benchmark
936.	Lead	6/30/2020	001	Benchmark
937.	TSS	6/30/2020	001	Benchmark
938.	Zinc	6/30/2020	001	Benchmark
939.	Aluminum	9/30/2020	001	Benchmark
940.	COD	9/30/2020	001	Benchmark
941.	Copper	9/30/2020	001	Benchmark
942.	Iron	9/30/2020	001	Benchmark
943.	Lead	9/30/2020	001	Benchmark
944.	TSS	9/30/2020	001	Benchmark
945.	Zinc	9/30/2020	001	Benchmark
946.	Enterococci	12/31/2021	001	Impaired waters
947.	Hexavalent chromium	12/31/2021	001	Impaired waters
948.	Nitrogen	12/31/2021	001	Impaired waters
949.	Phosphorus	12/31/2021	001	Impaired waters
950.	Surfactants	12/31/2021	001	Impaired waters

951. Upon information and belief, Schnitzer has failed to conduct annual impaired waters monitoring at the Caguas Facility for hexavalent chromium, nitrogen, phosphorus, surfactants, enterococcus, and fecal coliform.

952. Upon information and belief, Schnitzer has failed to conduct quarterly benchmark and annual impaired waters monitoring at the Caguas Facility for all pollutant criteria prior to the second quarter of 2017.

953. Schnitzer has failed to conduct required quarterly benchmark and annual impaired waters monitoring at the Canovanas Facility for the following pollutant criteria, on the following dates, and from the following outfalls:

Par. No.	**Pollutant Criteria**	**Monitoring Period End Date**	**Outfall**	**Monitoring and Reporting Requirement**
954.	Aluminum	12/31/2017	001	Benchmark
955.	COD	12/31/2017	001	Benchmark
956.	Copper	12/31/2017	001	Benchmark
957.	Iron	12/31/2017	001	Benchmark
958.	Lead	12/31/2017	001	Benchmark
959.	TSS	12/31/2017	001	Benchmark

960.	Zinc	12/31/2017	001	Benchmark
961.	Aluminum	3/31/2018	001	Benchmark
962.	COD	3/31/2018	001	Benchmark
963.	Copper	3/31/2018	001	Benchmark
964.	Iron	3/31/2018	001	Benchmark
965.	Lead	3/31/2018	001	Benchmark
966.	TSS	3/31/2018	001	Benchmark
967.	Zinc	3/31/2018	001	Benchmark
968.	Aluminum	6/30/2018	001	Benchmark
969.	COD	6/30/2018	001	Benchmark
970.	Copper	6/30/2018	001	Benchmark
971.	Iron	6/30/2018	001	Benchmark
972.	Lead	6/30/2018	001	Benchmark
973.	TSS	6/30/2018	001	Benchmark
974.	Zinc	6/30/2018	001	Benchmark
975.	Aluminum	9/30/2018	001	Benchmark
976.	COD	9/30/2018	001	Benchmark
977.	Copper	9/30/2018	001	Benchmark
978.	Iron	9/30/2018	001	Benchmark
979.	Lead	9/30/2018	001	Benchmark
980.	TSS	9/30/2018	001	Benchmark
981.	Zinc	9/30/2018	001	Benchmark
982.	Aluminum	6/30/2019	001	Benchmark
983.	COD	6/30/2019	001	Benchmark
984.	Copper	6/30/2019	001	Benchmark
985.	Iron	6/30/2019	001	Benchmark
986.	Lead	6/30/2019	001	Benchmark
987.	TSS	6/30/2019	001	Benchmark
988.	Zinc	6/30/2019	001	Benchmark
989.	Aluminum	12/31/2019	001	Benchmark
990.	COD	12/31/2019	001	Benchmark
991.	Copper	12/31/2019	001	Benchmark
992.	Iron	12/31/2019	001	Benchmark
993.	Lead	12/31/2019	001	Benchmark
994.	TSS	12/31/2019	001	Benchmark
995.	Zinc	12/31/2019	001	Benchmark
996.	Aluminum	3/31/2020	001	Benchmark
997.	COD	3/31/2020	001	Benchmark
998.	Copper	3/31/2020	001	Benchmark
999.	Iron	3/31/2020	001	Benchmark
1000.	Lead	3/31/2020	001	Benchmark
1001.	TSS	3/31/2020	001	Benchmark
1002.	Zinc	3/31/2020	001	Benchmark
1003.	Aluminum	6/30/2020	001	Benchmark
1004.	COD	6/30/2020	001	Benchmark

1005.	Copper	6/30/2020	001	Benchmark
1006.	Iron	6/30/2020	001	Benchmark
1007.	Lead	6/30/2020	001	Benchmark
1008.	TSS	6/30/2020	001	Benchmark
1009.	Zinc	6/30/2020	001	Benchmark
1010.	Aluminum	12/31/2020	001	Benchmark
1011.	COD	12/31/2020	001	Benchmark
1012.	Copper	12/31/2020	001	Benchmark
1013.	Iron	12/31/2020	001	Benchmark
1014.	Lead	12/31/2020	001	Benchmark
1015.	TSS	12/31/2020	001	Benchmark
1016.	Zinc	12/31/2020	001	Benchmark

1017. Upon information and belief, Schnitzer has failed to conduct quarterly benchmark and annual impaired waters monitoring at the Canovanas Facility for all pollutant criteria prior to the fourth quarter of 2017.

1018. Schnitzer has failed to conduct required quarterly benchmark and annual impaired waters monitoring at the Ponce Facility for the following pollutant criteria, on the following dates, and from the following outfalls:

Par. No.	Pollutant Criteria	Monitoring Period End Date	Outfall	Monitoring and Reporting Requirement
1019.	Aluminum	6/30/2017	001	Benchmark
1020.	COD	6/30/2017	001	Benchmark
1021.	Copper	6/30/2017	001	Benchmark
1022.	Iron	6/30/2017	001	Benchmark
1023.	Lead	6/30/2017	001	Benchmark
1024.	TSS	6/30/2017	001	Benchmark
1025.	Zinc	6/30/2017	001	Benchmark
1026.	Aluminum	9/30/2017	001	Benchmark
1027.	COD	9/30/2017	001	Benchmark
1028.	Copper	9/30/2017	001	Benchmark
1029.	Iron	9/30/2017	001	Benchmark
1030.	Lead	9/30/2017	001	Benchmark
1031.	TSS	9/30/2017	001	Benchmark
1032.	Zinc	9/30/2017	001	Benchmark
1033.	Enterococci	9/30/2017	001	Impaired waters
1034.	Oil & grease	9/30/2017	001	Impaired waters
1035.	Dissolved oxygen	9/30/2017	001	Impaired waters
1036.	Temperature	9/30/2017	001	Impaired waters

1037.	Turbidity	9/30/2017	001	Impaired waters
1038.	pH	9/30/2017	001	Impaired waters
1039.	Aluminum	12/31/2017	001	Benchmark
1040.	COD	12/31/2017	001	Benchmark
1041.	Copper	12/31/2017	001	Benchmark
1042.	Iron	12/31/2017	001	Benchmark
1043.	Lead	12/31/2017	001	Benchmark
1044.	TSS	12/31/2017	001	Benchmark
1045.	Zinc	12/31/2017	001	Benchmark
1046.	Aluminum	6/30/2018	001	Benchmark
1047.	COD	6/30/2018	001	Benchmark
1048.	Copper	6/30/2018	001	Benchmark
1049.	Iron	6/30/2018	001	Benchmark
1050.	Lead	6/30/2018	001	Benchmark
1051.	TSS	6/30/2018	001	Benchmark
1052.	Zinc	6/30/2018	001	Benchmark
1053.	Aluminum	12/31/2018	001	Benchmark
1054.	COD	12/31/2018	001	Benchmark
1055.	Copper	12/31/2018	001	Benchmark
1056.	Iron	12/31/2018	001	Benchmark
1057.	Lead	12/31/2018	001	Benchmark
1058.	TSS	12/31/2018	001	Benchmark
1059.	Zinc	12/31/2018	001	Benchmark
1060.	Aluminum	6/30/2019	001	Benchmark
1061.	Copper	6/30/2019	001	Benchmark
1062.	Lead	6/30/2019	001	Benchmark
1063.	Aluminum	3/31/2021	001	Benchmark
1064.	COD	3/31/2021	001	Benchmark
1065.	Copper	3/31/2021	001	Benchmark
1066.	Iron	3/31/2021	001	Benchmark
1067.	Lead	3/31/2021	001	Benchmark
1068.	TSS	3/31/2021	001	Benchmark
1069.	Zinc	3/31/2021	001	Benchmark
1070.	Enterococci	12/31/2021	001	Impaired waters
1071.	Oil & grease	12/31/2021	001	Impaired waters
1072.	Dissolved oxygen	12/31/2021	001	Impaired waters
1073.	Temperature	12/31/2021	001	Impaired waters
1074.	Turbidity	12/31/2021	001	Impaired waters
1075.	pH	12/31/2021	001	Impaired waters

1076. Upon information and belief, Schnitzer has failed to conduct annual impaired waters monitoring at the Ponce Facility for copper and mercury.

1077. Upon information and belief, Schnitzer has failed to conduct quarterly benchmark and

annual impaired waters monitoring at the Ponce Facility for all pollutant criteria prior to the second quarter of 2017.

1078. Where Schnitzer failed to conduct required quarterly benchmark monitoring due to adverse weather conditions, Schnitzer failed to take a substitute sample during the next qualifying storm event as required by the MSGPs.

THE FACILITIES' HARMS TO CLF'S MEMBERS

1079. CLF's members use the Río Hondo, the Río Bairoa, the Río Grande de Loiza, Lago Loiza, the Unnamed Creek, the Río Grande de Loiza Estuary, and/or the Caribbean Sea for drinking water, aesthetic uses, recreational uses, and/or observing wildlife.

1080. The Facilities' discharges of pollutants into the Río Hondo, the Río Bairoa, the Río Grande de Loiza, Lago Loiza, the Unnamed Creek, the Río Grande de Loiza Estuary, and the Caribbean Sea have degraded the health of these waterbodies and contributed to their impairments in a way that diminishes the use and enjoyment of CLF's members.

1081. CLF's members worry about the negative impact of heavy metals and other pollutants on their ability to enjoy observing wildlife on the Río Hondo, the Río Bairoa, the Río Grande de Loiza, Lago Loiza, the Unnamed Creek, the Río Grande de Loiza Estuary, and/or the Caribbean Sea.

1082. CLF's members are concerned about the health impacts of heavy metal pollution from drinking water sourced from Lago Loiza.

1083. The presence of odor, unnatural color, scum, foam, and diminished water clarity adversely affect the aesthetic enjoyment of the Río Hondo, the Río Bairoa, the Río Grande de Loiza, Lago Loiza, the Unnamed Creek, the Río Grande de Loiza Estuary, and/or the Caribbean Sea by CLF's members.

CLAIMS FOR RELIEF

Count I: Failure to Take Corrective Actions and/or AIMs Following Triggering Events

1084. Paragraphs 1 through 1083 are incorporated by reference as if fully set forth herein.

1085. The MSGPs require Defendants to take corrective action or additional implementation measures when the following triggering events occur: 1) the average of four quarterly sampling results exceeds the applicable benchmark value or when an exceedance of the four-quarter average is mathematically certain; 2) control measures do not adequately minimize discharges to meet applicable water quality standards; 3) a visual assessment shows evidence of stormwater pollution in the discharge; or 4) a facility inspection reveals that discharges are not adequately controlled.

1086. Following a triggering event, Defendants are required to 1) review and revise the Stormwater Pollution Prevention Plan to minimize pollutant discharges; 2) immediately take "all reasonable steps to minimize or prevent the discharge of pollutants until [it] can implement a permanent solution;" and 3) if necessary, take subsequent actions before the next storm event if possible and within 14 calendar days from the time of discovery.

1087. The average of four quarterly samplings results exceeded the applicable benchmark values or an exceedance of the four-quarter average was mathematically certain 24 times at the Bayamón Facility, 28 times at the Caguas Facility, 17 times at the Canovanas Facility, and 16 times at the Ponce Facility.

1088. Upon information and belief, the control measures at the Facilities did not and do not currently adequately minimize discharges to meet applicable water quality standards.

1089. Upon information and belief, quarterly visual assessments of discharge at the Facilities documented evidence of stormwater pollution.

1090. Upon information and belief, facility inspections revealed that discharges were not adequately controlled at the Facilities.

1091. Schnitzer did not take corrective action or AIMs as required by the MSGPs following the triggering events listed in paragraphs 1087-1090 above.

1092. Upon information and belief, following the triggering events listed in 1087-1090 above, Schnitzer did not review and revise the Stormwater Pollution Prevention Plans for the Facilities.

1093. Upon information and belief, following the triggering events listed in paragraphs 1087-1090 above, Schnitzer did not immediately take all reasonable steps to minimize or prevent the discharge of pollutants until it could implement a permanent solution.

1094. Upon information and belief, following the triggering events listed in paragraphs 1087-1090 above, Schnitzer did not take subsequent actions as necessary before the next storm event if possible and within 14 calendar days from the time of discovery.

1095. In light of Defendants' history of violations, and their failure to take corrective action, Defendants will continue to violate this provision of the MSGPs in the future unless and until enjoined from doing so.

1096. Each day that Defendants have violated or continue to violate the corrective action and/or AIM requirement is a separate and distinct violation of the MSGPs and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a).

Count II: Failure to Use Control Measures to Minimize Pollutant Discharges

1097. Paragraphs 1 through 1083 are incorporated by reference as if fully set forth herein.

1098. The MSGPs require that Schnitzer select, design, install, and implement control measures "to minimize pollutant discharges."

1099. Schnitzer has failed and continues to fail to select, design, install, and implement control

measures to minimize pollutant discharges.

1100. Upon information and belief, Schnitzer has failed to comply with the pollutant control measures required in Section 2.1 of the MSGPs, including but not limited to provisions related to minimizing exposure, good housekeeping measures, maintenance of control measures, leaks and spills, control of sediment discharge, and dust generation.

1101. Schnitzer has discharged pollutants in excess of the benchmark values in the MSGPs at least 30 times from the Bayamón Facility, 30 times from the Caguas Facility, 22 times from the Canovanas Facility, and 17 times from the Ponce Facility.

1102. Each day that Defendants have violated or continue to violate the MSGPs' requirement to use control measures to minimize pollutant discharges is a separate and distinct violation of the MSGPs, Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a), and 40 C.F.R. Part 451.

Count III: Unlawful Discharges Causing Violation of Water Quality Standards

1103. Paragraphs 1 through 1083 are incorporated by reference as if fully set forth herein.

1104. The MSGPs require that Defendants control its stormwater discharges "as necessary to meet applicable water quality standards of all affected states."

1105. Schnitzer's discharges from the Facilities are required to comply with Puerto Rico water quality standards.

1106. The Facilities have caused or contributed to violations of Puerto Rico water quality standards contained in P.R. WQS REG. 9079 §1303.1, pertaining to aesthetic requirements.

1107. The Facilities have caused or contributed to violations of Puerto Rico water quality standards contained in P.R. WQS REG. 9079 §1303.1.A, pertaining to floating materials.

1108. The Facilities have caused or contributed to violations of Puerto Rico water quality standards contained in P.R. WQS REG. 9079 §1303.1.B, pertaining to color, odor, taste, or

turbidity.

1109. The Facilities have caused or contributed to violations of Puerto Rico water quality standards contained in P.R. WQS REG. 9079 §1303.1.E, pertaining to the deposition of solids.

1110. The Facilities have caused or contributed to violations of Puerto Rico water quality standards contained in P.R. WQS REG. 9079 §1303.1.H, pertaining to oil and grease.

1111. The Facilities have caused or contributed to violations of Puerto Rico water quality standards contained in P.R. WQS REG. 9079 §1303.J, pertaining to toxics and undesirable physiological responses.

1112. The Facilities have caused or contributed to violations of Puerto Rico water quality standards contained in P.R. WQS REG. 9079 §1303.2.B.2.e, g, pertaining to Class-specific criteria for Class SB waters.

1113. The Facilities have caused or contributed to violations of Puerto Rico water quality standards contained in P.R. WQS REG. 9079 §1303.2.C.2.h, pertaining to Class-specific criteria for Class SD waters.

1114. Every Puerto Rico surface water quality standard violation constitutes a separate and distinct violation of the MSGPs and the Clean Water Act.

1115. In light of Defendants' history of violations, and their failure to take corrective action, Defendants will continue to violate the MSGPs' prohibition against causing violations of state water quality standards violations, including violations of each of the above-enumerated Puerto Rico water quality standards, unless and until enjoined from doing so.

1116. Each day, and for each pollutant parameter and each Puerto Rico water quality standard that Defendants have violated or continue to violate, constitutes a separate and distinct violation of the MSGPs and of Section 301(a) of the Clean Water Act, 33 U.S.C. §§ 1311(a).

Count IV: Failure to Comply with Monitoring and Reporting Requirements

1117. Paragraphs 1 through 1083 are incorporated by reference as if fully set forth herein.

1118. The MSGPs require Schnitzer to conduct quarterly benchmark monitoring for aluminum, copper, iron, lead, zinc, COD, and TSS.

1119. In the event that adverse weather conditions prevent the collection of a required quarterly stormwater sample, the MSGPs require Schnitzer "to take a substitute sample during the next qualifying storm event."

1120. Schnitzer is required to conduct impaired waters monitoring for its discharges from the Bayamón Facility for arsenic, coliform, foaming agents, dissolved oxygen, selenium, turbidity, surfactants, and fecal coliform.

1121. Schnitzer is required to conduct impaired waters monitoring for its discharges from the Caguas Facility for hexavalent chromium, nitrogen, phosphorus, surfactants, enterococcus, and fecal coliform

1122. Schnitzer is required to conduct impaired waters monitoring for its discharges from the Ponce Facility for enterococci, oil and grease, dissolved oxygen, temperature, turbidity, pH, copper, and mercury.

1123. Schnitzer has failed to conduct required quarterly benchmark monitoring at the Bayamón Facility at least 280 times since the fourth quarter of 2016.

1124. Schnitzer has failed to conduct required annual impaired waters monitoring at the Bayamón Facility at least 105 times since the fourth quarter of 2016.

1125. Schnitzer has failed to conduct required quarterly benchmark monitoring at the Caguas Facility at least 77 times since the fourth quarter of 2016.

1126. Schnitzer has failed to conduct required annual impaired waters monitoring at the Caguas

Facility at least five times since the fourth quarter of 2016.

1127. Schnitzer has failed to conduct required quarterly benchmark monitoring at the Canovanas Facility at least 63 times since the fourth quarter of 2016.

1128. Schnitzer has failed to conduct required quarterly benchmark monitoring at the Ponce Facility at least 45 times since the fourth quarter of 2016.

1129. Schnitzer has failed to conduct required annual impaired waters monitoring at the Ponce Facility at least 12 times since the fourth quarter of 2016.

1130. In light of Defendants' history of violations, and their failure to take corrective action, Defendants will continue to violate this provision of the MSGPs in the future unless and until enjoined from doing so.

1131. Each day that Defendants have violated or continue to violate the monitoring and reporting requirements of the MSGPs is a separate and distinct violation of the Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a).

RELIEF REQUESTED

Plaintiff respectfully requests that this Court grant the following relief:

a. Issue a declaratory judgment, pursuant to 28 U.S.C. § 2201, that Defendants have violated and remain in violation of the Permit, Section 301(a) of the Clean Water Act, 33 U.S.C § 1311(a), and applicable regulations, as alleged in Counts I, II, III, IV, and V of this Complaint;

b. Enjoin Defendants from violating the requirements of the MSGPs, Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a), applicable Clean Water Act regulations, and state water quality standards;

c. Impose civil penalties on Defendants as provided under Sections 505(a) and

309(d) of the Clean Water Act, 33 U.S.C. §§ 1365(a) and 1319(d), and its implementing regulations of 40 C.F.R. § 19.4;

d. Award Plaintiff's costs of litigation, including reasonable attorney and expert witness fees, as provided under Section 505(a) of the Clean Water Act, 33 U.S.C. § 1365(d); and

e. Grant such other relief as this Court may deem appropriate.

Dated: February 22, 2022

/s/
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